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TABLE OF CONTENTS

April 6, 2001 Volume 25, Issue 14

PROPOSED RULES

HUMAN SERVICES, DEPARTMENT OF

Alcoholism And Substance Abuse Treatment And Intervention Licenses	
77 Ill. Adm. Code 2060	4742
General Assistance	
89 Ill. Adm. Code 114	4795

EDUCATIONAL FACILITIES AUTHORITY, ILLINOIS

Functions And Planning Program	
23 Ill. Adm. Code 2310	4806

SECRETARY OF STATE

Public Library Construction Grants	
23 Ill. Adm. Code 3060	4810

ADOPTED RULES

ATTORNEY GENERAL

Motor Vehicle Advertising	
14 Ill. Adm. Code 475	4819

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

Business Enterprise Program: Contracting With Business Owned And Controlled By Minorities, Females And Persons With Disabilities	
44 Ill. Adm. Code 10	4831
Conditions Of Employment	
80 Ill. Adm. Code 303	4847

ILLINOIS COMMERCE COMMISSION

Standards Of Service Applicable To Wireless 9-1-1 Emergency Systems	
83 Ill. Adm. Code 728	4853

PUBLIC HEALTH, DEPARTMENT OF

Illinois Veterans' Homes Code	
77 Ill. Adm. Code 340	4869
Intermediate Care For The Developmentally Disabled Facilities Code	
77 Ill. Adm. Code 350	4879
Long-Term Care For Under Age 22 Facilities Code	
77 Ill. Adm. Code 390	4890
Sheltered Care Facilities Code	
77 Ill. Adm. Code 330	4901
Skilled Nursing And Intermediate Care Facilities Code	
77 Ill. Adm. Code 300	4911

REVENUE, DEPARTMENT OF

County Motor Fuel Tax	
86 Ill. Adm. Code 695	4922
Income Tax	
86 Ill. Adm. Code 100	4929
Retailers' Occupation Tax	
86 Ill. Adm. Code 130	4950
Service Occupation Tax	
86 Ill. Adm. Code 140	4971
Service Use Tax	
86 Ill. Adm. Code 160	5015
Telecommunications Excise Tax	
86 Ill. Adm. Code 495	5034
Uniform Penalty And Interest Act	
86 Ill. Adm. Code 700	5038
Use Tax	
86 Ill. Adm. Code 150	5059

PEREMPTORY RULE

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

Pay Plan

80 Ill. Adm. Code 310	5067
-----------------------------	------

NOTICE OF PUBLIC INFORMATION

BANKS AND REAL ESTATE, OFFICE OF

The Residential Mortgage License Act Of 1987	5099
--	------

NOTICE OF EXPEDITED CORRECTIONS

POLLUTION CONTROL BOARD

Standards Applicable To Generators Of Hazardous Waste

35 Ill. Adm. Code 722	5105
-----------------------------	------

Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities

35 Ill. Adm. Code 724	5115
-----------------------------	------

JOINT COMMITTEE ON ADMINISTRATIVE RULES - NOTICE OF FAILURE TO REMEDY

DEPARTMENT OF HUMAN SERVICES

Crisis Assistance

89 Ill. Adm. Code 116, Objection	5127
--	------

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received	5128
-------------------------------	------

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

01-117	Gubernatorial Proclamation	5129
01-118	Building Homes: Rebuilding Lives Day	5129
01-119	Dr. Mohammed Mossadegh Day	5129
01-120	Gary Seibert Day	5130
01-121	Ramayana Day	5131
01-122	Carl N. Doerr Days	5131
01-123	William Grant Stratton	5132
01-124	Chicago Business Opportunity Days	5132
01-125	National Association of Women Business Owners Day	5133
01-126	New Members Training and Development B.R.I.D.G.E. Day	5133
01-127	Nurses Day	5134
01-128	Student Technology Day	5134
01-129	Taxpayers' Federation of Illinois Day	5134
01-130	American Ex-POW Recognition Day	5135
01-131	Cancer Awareness Day	5135
01-132	Cancer Awareness Week for African Americans	5136
01-133	Elsie Green Day	5136
01-134	Great American Meatout Day	5137
01-135	March of Dimes WalkAmerica Days	5137
01-136	Minority Health Month	5138
01-137	Proud Lady Days	5139
01-122	Carl N. Doerr Week (Revised)	5139

ISSUES INDEX I-1

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

Issue 16-April	14, 2000:	Data Through March	31, 2000
Issue 29-July	14, 2000:	Data Through June	30, 2000
Issue 42-October	13, 2000:	Data Through September	30, 2000
Issue 3-January	19, 2001:	Data Through December	31, 2000 (Annual)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Alcoholism and Substance Abuse Treatment and Intervention Licenses

2) Code Citation: 77 Ill. Adm. Code 2060

3) Section Numbers:

2060.103

Amendment

2060.203

Amendment

2060.205

Amendment

2060.211

Amendment

2060.229

New

2060.303

Amendment

2060.305

Amendment

2060.309

Amendment

2060.311

Amendment

2060.313

Amendment

2060.315

Amendment

2060.317

Amendment

2060.325

Amendment

2060.401

Amendment

2060.405

Amendment

2060.407

Amendment

2060.409

Amendment

2060.413

Amendment

2060.415

Amendment

2060.417

Amendment

2060.423

Amendment

2060.425

Amendment

2060.427

Amendment

2060.501

Amendment

2060.503

Amendment

2060.505

Amendment

2060.509

Amendment

4) Statutory Authority: Implementing and authorized by the Illinois Vehicle Code [625 ILCS 5] and the Alcoholism and Other Drug Dependency Act (20 ILCS 301).

5) A Complete Description of the Subjects and Issues involved: This proposed rulemaking grants greater flexibility in treatment plan reviews and progress notes, which allow clinicians more time to provide direct services and to help offset some of the other mandates contained in this Part. The proposed amendments allow greater flexibility in delivering services off-site from the licensed location, which is more compatible with other program practices. The amendments contain a "deemed" status provision for providers who have received certain specific national accreditations relative to substance abuse services.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
(217)785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing services covered by this Part.

B) Reporting, bookkeeping or other procedures required for compliance: Those procedures required in this Part to receive licensing.

C) Types of professional skills necessary form compliance: Knowledge of services provided persons covered by this Rulemaking.

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: LICENSES

PART 2060
ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT
AND INTERVENTION LICENSES

SUBPART A: GENERAL REQUIREMENTS

Section
2060.101 Applicability
2060.103 Incorporation by Reference and Definitions

SUBPART B: LICENSE REQUIREMENTS

Section
2060.201 Types of Licenses
2060.203 Off-Site Delivery of Services
2060.205 Unlicensed Practice
2060.207 Organization Representative
2060.209 Ownership Disclosure
2060.211 License Application Forms
2060.213 License Application Fees
2060.215 Period of License
2060.217 License Processing/Review Requirements
2060.219 Renewal of License
2060.221 Change of Ownership/Management
2060.223 Dissolution of the Corporation
2060.225 Relocation of Facility
2060.227 License Certificate Requirements
2060.229 Deemed Status

SUBPART C: REQUIREMENTS - ALL LICENSES

Section
2060.301 Federal, State and Local Regulations and Court Rules
2060.303 Rule Exception Request Process
2060.305 Facility Requirements
2060.307 Service Termination/Record Retention
2060.309 Professional Staff Qualifications
2060.311 Staff Training Requirements
2060.313 Personnel Requirements and Procedures
2060.315 Quality Improvement
2060.317 Service Fees
2060.319 Confidentiality - Patient Information
2060.321 Confidentiality - HIV Antibody/AIDS Status
2060.323 Patient Rights

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

2060.325 Patient/Client Records
2060.327 Emergency Patient Care
2060.329 Referral Procedure
2060.331 Incident and Significant Incident Reporting
2060.333 Complaints
2060.335 Inspections
2060.337 Investigations
2060.339 License Sanctions
2060.341 License Hearings

SUBPART D: REQUIREMENTS - TREATMENT LICENSES

Section
2060.401 Levels of Care
2060.403 Court Mandated Treatment
2060.405 Detoxification
2060.407 Group Treatment
2060.409 Patient Education
2060.411 Recreational Activities
2060.413 Medical Services
2060.415 Infectious Disease Control
2060.417 Patient Placement
2060.419 Assessment for Treatment Planning
2060.421 Treatment Plans
2060.423 Continued Stay Review
2060.425 Progress Notes and Documentation of Service Delivery
2060.427 Continuing Recovery Planning and Discharge

SUBPART E: REQUIREMENTS - INTERVENTION LICENSES

Section
2060.501 General Requirements
2060.503 DUI Evaluation
2060.505 DUI Risk Education
2060.507 Designated Program
2060.509 Recovery Homes

AUTHORITY: Implementing and authorized by the Illinois Vehicle Code (625 ILCS 5) and the Alcoholism and Other Drug Dependency Act (20 ILCS 301).

SOURCE: Adopted at 20 Ill. Reg. 13519, effective October 3, 1996; recodified from Department of Alcoholism and Substance Abuse to Department of Human Services at 21 Ill. Reg. 9319; emergency amendment at 23 Ill. Reg. 4488, effective April 2, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10803, effective August 23, 1999; amended at 25 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL REQUIREMENTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 2060.103 Incorporation by Reference and Definitions

"Act" means the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].

"Admission" means what occurs after a patient has completed an assessment, received placement into a level of care, and been accepted for and begun such treatment.

"Adolescent" means a person who is at least **12** ~~twelve~~ years of age and under **18** ~~eighteen~~ years of age.

"Adult" means a person who is **18** ~~eighteen~~ years of age or older.

"Alcohol and Drug Evaluation Report Summary" means the form, developed by the Office of the Secretary of State and required for use by the Illinois courts when granting judicial driving privileges, as defined in Section 6-201 of the Illinois Driver Licensing Law [625 ILCS 5/6-201].

"Alcohol and Drug Evaluation Uniform Report" means the form, mandated by the Department and produced from the DUI Service Reporting System (DSRS), that is required to report a summary of the DUI evaluation to the circuit court or the Office of the Secretary of State.

"Americans with Disabilities Act of 1990 (ADA)" ~~42 USC 12101~~ is the federal law requiring ~~means that in accordance with 42 USC 12101~~ that public accommodations offer their services equally to persons without discrimination based on disabilities. An organization may not deny its services, offer unequal services, or separate services, or have policies and procedures that ~~which~~ have a discriminatory effect based on a disability, and shall remove barriers where possible and provide alternatives where not possible.

"ASAM Patient Placement Criteria" means the American Society of Addiction Medicine's Patient Placement Criteria ~~Medicine--Patient Placement--Criteria~~ for the Treatment ~~treatment~~ of Substance-Related Disorders, Second Edition (ASAMPPC-2R) ~~psychoactive--substance-use disorders--published as the--American--Society--of--Addiction--Medicine~~ (2001), no later amendments or editions included 1996) ~~---Patient Placement--Criteria--for the--Treatment--of Substance-Related-Disorders; Second-Edtion--(ASAM-PPC-2R)7~~, Chevy Chase, MD; ~~The Society~~.

"Assessment" means the process of collecting and professionally interpreting data and information from an individual and/or collateral sources, with the individual's permission, about alcohol and other drug use and its consequences as a basis for establishing a diagnosis of a substance use disorder, determining the severity of the disorder

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

and comorbid conditions and identifying the appropriate level and intensity of substance abuse treatment, as well as needs for other services.

"Associate Director" means the Associate Director of the Department of Human Services Office of Alcoholism and Substance Abuse (OASA).

"Authorized Prescriber" means a physician licensed to practice medicine in all its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60] or a physician under federal authority who issues prescriptions pursuant to 21 CFR 1301.25 ~~499d77~~.

"Authorized Organization Representative" means the individual in whom authority is vested for the management, control and operation of all services at a facility and for communication with the Department regarding the status of the organization's licenses at that facility.

"Case Management" means the provision, coordination, or arrangement of ancillary services designed to support a specific patient's substance abuse treatment with the goal of improving clinical outcomes.

"Chemical Test" means, in the context of intervention services, a breath, blood or urine test that measures the blood alcohol concentration (BAC) and/or drug concentration.

"Client" means a person who receives intervention services as defined in this Part.

"Clinical Services" means substance abuse assessment, individual or group counseling, and discharge planning. The organization may also determine that other specified activities require the services of a professional staff member.

"Continuing Recovery Care Plan" means a plan developed with the patient prior to discharge that identifies recommended activities, support groups, referrals and any other necessary follow-up activities that will support and enhance patient progress, to date.

"Continuum of Care" means a structure of interlinked treatment services (either offered by one organization or through linkage agreements with other organizations) that is designed so a patient's changing needs will be met as that individual moves through the treatment and recovery process.

"Controlled Substance" means a drug or substance, or immediate precursor, that ~~which~~ is enumerated in the Schedules of Article II of the Illinois Controlled Substances Act [720 ILCS 570] and in the Cannabis Control Act [720 ILCS 550].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Deemed Status" means an exemption from routine inspection for specified Sections of this Part based upon the organization's accreditation from a national accrediting body recognized by the Department.

"Department" means the Department of Human Services.

"Detoxification" means the process of withdrawing a person from a specific psychoactive substance in a safe and effective manner.

"Discharge" means the point at which the patient's treatment is terminated either by successful completion or by some other action initiated by the patient and/or the organization.

"Drunk and Drugged Driving Prevention Fund" means a special fund in the State Treasury created by Section 50-20 of the Alcoholism and Other Drug Abuse and Dependency Act out of which the Department may provide reimbursement for DUI evaluation and risk education services to indigent DUI offenders pursuant to this Part, and that which it may also use to enhance and support its regulatory inspections and investigations.

"DUI" means driving while under the influence of alcohol, other drugs or combination thereof as defined in the Illinois Vehicle Title and Registration Law [625 ILCS 5/Ch. 2-5] or a similar provision of a local ordinance.

"Early Intervention" means services that are sub-clinical or pre-treatment and are designed to explore and address problems or risk factors that appear to be related to substance use and/or to assist individuals in recognizing the harmful consequences of inappropriate substance abuse.

"DUI Evaluation" means the service provided to a person relative to a DUI offense in order to determine the nature and extent of the use of alcohol or other drugs as required by the Unified Code of Corrections [730 ILCS 5] and Section 6-206.1 of the Illinois Driver Licensing Law [625 ILCS 5/6-206.1].

"DUI Service Reporting System (DSRS)" means the computer software that shall be utilized to summarize all evaluation and risk education service statistics semi-annually and to produce the "Alcohol and Drug Evaluation Uniform Report" and other associated forms.

"Facility" means the building or premises that which are used for treatment and intervention services as specified in this Part.

"Good Cause" means conditions that would prevent a reasonable licensee

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

from meeting one or more of the requirements of this Part.

"Incident" means any action by staff or patients that led, or is likely to lead, to adverse effects on patient services because of a deviation from established patient care procedures.

"Indigency Fee" means a minimum of ten percent but no more than thirty percent of the fee established by the Department for the DUI evaluation or risk education service and is applicable to the difference between the fee charged for the service and the Department rate established for that service.

"Indigent DUI Offender" means anyone who has proven inability to pay the full cost of the DUI evaluation or risk education service as determined through criteria established by the U.S. Department of Health and Human Services and published in the Federal Register and whose uncollected costs for such DUI services may be reimbursed from the Drunk and Drugged Driving Prevention Fund, subject to availability of such funds.

"Individual Counseling" means a therapeutic interaction between a patient and professional staff that includes but is not limited to the following: assessment of the patient's needs; development of a treatment plan to meet those identified needs; continual assessment of patient progress toward identified treatment plan goals and objectives; referral, if necessary; and discharge planning.

"Informed Consent" means a legally valid written consent by an individual or legal guardian that which authorizes treatment, intervention or other services or the release of information about the individual, and that which gives appropriate information to the individual so that he or she can authorize the service or disclosure with understanding of the consequences.

"Intervention" means activities or services that which assist persons and their significant others in coping with the immediate problems of substance abuse or dependence and in reducing their substance use. Such services facilitate emotional and social stability and involve referring persons for treatment, as needed.

"Investigational New Drugs" means those substances that which require approval by the U.S. Food and Drug Administration for trials with human subjects pursuant to 21 CFR 312.43(996f).

"LAAH" means levo-alpha-acetyl-methadol that which is a synthetic opioid agonist whose opioid effect is slower in onset and longer in duration (72 hours) than methadone and that which is used in opioid maintenance therapy.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Linkage Agreement" means a written agreement with an external organization to supplement existing levels of care and to arrange for other specialty services not directly provided by the organization.

"Methadone" means a synthetic narcotic analgesic drug (4,4-diphenyl-6-dimethylamino-heptanone-3-hydrochloride) that which is used in opioid maintenance therapy.

"Mission Statement" means the reason for existence for the organization and/or specific setting or service.

"Opioid Maintenance Therapy (OMT)" means the medical prescription, medical monitoring and dispensing of opioid compounds (such as Methadone and LAAM) as a medical adjunct to substance abuse treatment.

"Off-Site Delivery of Services" means licensable services that which are delivered conducted at a location separate from the licensed facility.

"Organization" means any public or private agency, corporation, unit of State or local government or other legal entity acting individually or as a group that which seeks licensure or is licensed to operate one or more substance abuse treatment or intervention services.

~~"Organization-Representative" means the individual in whom authority is vested for the management, control and operation of all services at a facility and for communication with the Department regarding the status of the organization's license(s) at that facility.~~

"Patient" means a person who receives substance abuse treatment services as defined in this Part from an organization licensed hereunder.

"Person" means any individual, firm, group, association, partnership, corporation, trust, government or governmental subdivision or agency.

"Physician" means a person who is licensed to practice medicine in all its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60].

"Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, pharmacist, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise permitted by the United States pursuant to 21 CFR 1301.21 (1996) and this State to distribute or dispense in accordance with Section 312 of the Illinois Controlled Substances Act [720 ILCS 510], conduct research with respect to, administer or use in teaching or chemical analysis, a controlled

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

substance in the course of professional practice or research.

"Professional Staff" means any person who provides clinical services or who delivers intervention services as defined in this Part.

"Psychiatrist" means a physician licensed to practice medicine in all its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60] and who meets the requirements of the Mental Health and Developmental Disabilities Code [405 ILCS 5].

"Recovery Home" means alcohol and drug free housing authorized by an intervention license issued by the Department, whose rules, peer-led groups, staff activities and/or other structured operations are directed toward maintenance of sobriety for persons in early recovery from substance abuse or who recently have completed substance abuse treatment services or who may still be receiving such treatment services at another licensed facility.

"Relapse" means a process manifested by a progressive pattern of behavior that reactivates the symptoms of a disease or creates debilitating conditions in an individual who has experienced remission from addiction.

"Residential Extended Care" (formerly halfway house) means residential clinical services for adults (17 year olds may be admitted provided that their assessment includes justification based on their behavior and life experience) or adolescents provided by professional staff in a 24 hour structured and supervised treatment environment. This type of service is primarily designed to provide residents with a safe and stable living environment in order to develop sufficient recovery skills.

"Revocation" means the termination of a treatment or intervention license, or any portion thereof, by the Department.

"Risk" means, in the context of intervention services, the designation (minimal, moderate, significant, or high) assigned to a person who has completed a substance abuse evaluation as a result of a charge for DUI that which describes the person's probability of continuing to operate a motor vehicle in an unsafe manner. This assignment is based upon the following factors: the nature and extent of the person's substance use; chemical testing results; prior dispositions for DUI, statutory summary suspensions or reckless driving convictions reduced from a DUI; and any other significant dysfunction resulting from substance use or dependence.

"Secretary" means the Secretary of the Department of Human Services or his or her designee.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Significant Incident" means any occurrence at a licensed facility that requires the services of the coroner and/or that which renders the facility inoperable.

"Significant Other" means the spouse, immediate family member, other relative or individual who interacts most frequently with the patient in a variety of settings and who may also receive substance abuse services.

"Substance Abuse or Dependence" means maladaptive patterns of substance use leading to a clinically significant impairment or distress, as defined in the American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders Fourth Edition (DSM-IV), Washington, DC, American Psychiatric Association (1994, no later amendments or editions included).

"Support Staff" means any ~~the--client--~~staff ~~administrative--and management--personnel~~ who do not deliver clinical or intervention services.

"Transfer" means the process that occurs when a patient can no longer receive services at an organization because the appropriate level of care is not available, or the movement of the patient from one level of care to another within an organization's continuum of care.

"Treatment" means a continuum of care provided to persons addicted to or abusing alcohol or other drugs that is designed to identify and change patterns of behavior that are maladaptive, destructive and/or injurious to health; or to restore appropriate levels of physical, psychological, and/or social functioning.

"Treatment Plan" means an individually written plan for a patient that ~~which~~ identifies the treatment goals and objectives based upon a clinical assessment of the patient's individual problems, needs, strengths and weaknesses.

"Tuberculosis Services" means counseling the person regarding tuberculosis; testing to determine whether the person has been infected with mycobacteria tuberculosis to determine the appropriate form of treatment; and providing for or referring the infected person for appropriate medical evaluation and treatment.

"Utilization Review" means a quality protective function that which attempts to ensure that the patient is receiving an appropriate level of services, in accordance with assessed clinical conditions. Utilization review activities focus primarily in four major areas:

the appropriateness and clinical necessity of admitting a patient

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

to a level of care;

the appropriateness and clinical necessity of continuation of the initiated level of care;

the initiation and completion of timely discharge planning; and

the appropriateness and clinical necessity and timelines of support services.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART B: LICENSURE REQUIREMENTS

Section 2060.203 Off-Site Delivery of Services

a) Licensure shall be facility specific; however, treatment or intervention services may be offered off-site when good cause is established by the organization for an exception to be granted by the Department in accordance with Section 2060.303 of this Part and the criteria outlined in subsection (d) of this Section.

b) The exception process for off-site delivery of services shall not be required for: apply-to

- 1) patient or client emergency situations; where--prior--approval cannot-be-obtained--or-to
- 2) services delivered in health, schools, or hospitals or facilities or offices owned or operated by the State of Illinois or any local governmental entity, with the exception of Illinois Department of Corrections facilities and city or county operated jails and detention centers;

- 3) court ordered service to an individual in jail;
- 4) early intervention services; or
- 5) case management services.

However, in such cases, the rationale and location for the provision of the off-site service shall be documented in the patient record and any patient record utilized or stored at the off-site location shall be done so in accordance with the provisions specified in Section 2060.319 of this Part.

c) In order to receive an exception for off-site services the licensed organization shall submit a request to the Department at least 30 calendar days prior to the anticipated provision of such services. The request shall include the following:

- 1) the legal name, address and telephone number of the off-site location;
- 2) the services that will be provided at the off-site location;
- 3) the days of the week and hours when each service will be provided;

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- 4) the legal name, address, telephone number and license number of the organization that will operate and provide supervision for the services;
 - 5) the names of professional staff who will provide the services;
 - 6) the reason for the provision of services at the off-site location; and
 - 7) the numbers of individuals to be served.
- d) In determining whether the provision of off-site service shall be allowed, the Department shall consider, but not be limited to, appropriate factors such as:
- 1) the ability to provide the environment required for the level of care;
 - 2) the gravity of the reason that service at the licensed location is not acceptable (transportation requirements, sickness, etc.);
 - 3) availability of necessary support functions at the off-site location;
 - 4) ability to provide professional environment at the off-site location;
 - 5) physical safety of the patient; and
 - 6) compliance with applicable State and federal regulations.
- e) The Department shall also be notified of any change in the provision of off-site services at least 10 ten calendar days prior to any change in such services.
- f) Failure to report such information to the Department shall result in the unlicensed practice of services at such locations.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2060.205 Unlicensed Practice

- a) Whenever the Department determines that an unlicensed organization or person is engaging in activities that which require licensure, pursuant to the specifications in Section 2060.101 of this Part, it shall issue an order to that organization of person to cease and desist from engaging in the activity. The order shall specify the particular services that which require licensure, and shall include citation of relevant Sections of the Act and this Part.
- b) The Department's order shall be accompanied by a notice that which instructs the recipient that written documentation may be submitted to the Department within 10 ten calendar days to support a claim that licensure is not required, or that the recipient is properly authorized to conduct the services.
- c) After the expiration of the 10 ten day period, if the Department believes that the organization or unlicensed person is continuing to provide services that require licensure, the matter shall be referred to the appropriate State's Attorney or to the Office of the Attorney General for prosecution.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2060.211 License Application Forms

- a) An application for a license, an application to renew a license, an application to relocate a facility or an application to add an additional level of care or category (adolescent/adult) shall be made on forms specified by the Department. The organization shall provide all information requested on the application forms.
- b) Such forms may be obtained in person or by writing to:

Illinois Department of Human Services
Office of Alcoholism and Substance Abuse
160 N. LaSalle, Suite 4700
100 W. Randolph Str., Suite 5-600
Chicago, Illinois 60601
Attention: Division of Licensing and Certification **Monitoring**
(312) 814-4718

or

Illinois Department of Human Services
222-S-Boeing-7nd Floor
Springfield, Illinois 62704
Attention: Division of Licensing and Monitoring
(217) 782-0685

- c) An application for a license shall be signed and dated by the organization representative, and at least two of the corporate officers in the case of a corporate applicant, or by all partners or associates in the case of a partnership or association.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2060.229 Deemed Status

- a) The Department shall grant deemed status to specified Sections of this Part to any organization that has received national accreditation for its substance abuse services from any of the following accrediting bodies:
 - 1) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO);
 - 2) The Commission on Accreditation of Rehabilitation Facilities (CARF);
 - 3) The Council on Accreditation of Services for Families and Children (COA).

DEPARTMENT OF HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

~~that are not statutorily mandated may be requested, however, only a~~
~~Section contains a specific exception provision; the specific~~
~~provision shall control.~~

- d) The Department may revoke any exception granted when where the circumstances that which gave rise to the exception no longer exist or when any conditions imposed by the granting of the exception are not allowed. The provider shall notify the Department ~~what~~ ~~be~~ ~~notified~~ in writing within 10 no later than ten calendar days when after the circumstances that which gave rise to the exception no longer exist.
- e) An exception to any Sections shall be valid only for the term of the license under which it was granted unless a different time period of permanent variance is specified by the Department. At the point of license renewal, reapplication for the exception shall be made.
- f) Any licensed organization may be granted deemed status, in accordance with the provisions specified in Section 2060.229 of this Part.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.305 Facility Requirements

- a) At the time of application for initial or renewal licensure, all organizations, with the exception of Recovery Homes that are subject to the provisions specified in Section 2060.509 of this Part, shall, on a form supplied by the Department, document full compliance with all applicable provisions specified in this Section and, specifically, with the following ~~shall be documented~~:
 - 1) all local and State health, safety, sanitation, building and zoning codes;
 - 2) all applicable sections, as specified in this Section below, of the National Fire Protection Association's (NFPA) Life Safety Code of 2000 1994 (National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269), no later amendments or editions included;
 - 3) the facility requirements specified in the Environmental Barriers Act (410 ICs 25) and the Illinois Accessibility Code (71 Ill. Adm. Code 400); and
 - 4) the facility requirements specified in the Americans with Disabilities Act of 1990 (42 USC 12101).
- b) The days and hours of operation shall be posted at each facility where treatment or intervention services are provided. This information shall be displayed in a location that is visible to all persons.
- c) Each facility shall also:
 - 1) have a written emergency preparedness plan that which ensures appropriate disaster preparedness and continuation of services, if possible, after a disaster. This plan shall contain provisions for a tornado and fire drill at least annually, identify the role of the facility in a community-wide disaster

- b) Deemed status shall be granted by accredited site.
- c) The specific Sections of this Part for which deemed status shall be granted will be determined annually by OASA relative to each accrediting body. Organizations shall be notified at the beginning of each fiscal year concerning the deemed status determination for their applicable sites based upon the following criteria:

- 1) a review of the most recent survey results from the accrediting body;
- 2) evidence of one complete licensure survey relative to all Sections of this Part and demonstrated compliance for a minimum of two years thereafter;
- 3) certification from the organization that it will maintain compliance with all applicable standards under which it is accredited; and
- 4) certification from the organization that it will immediately notify the Department if accreditation is revoked.
- d) Organizations shall be granted deemed status according to the exception process specified in Section 2060.303(f) of this Part.
- e) The Department reserves the right to inspect and determine compliance with all aspects of this Part, regardless of deemed status, should evidence warrant that inspection.
- f) The Department reserves the right to revoke deemed status should evidence warrant that revocation.

(Source: Added at 25 Ill. Reg. _____, effective _____)

SUBPART C: REQUIREMENTS - ALL LICENSES

Section 2060.303 Rule Exception Request Process

- a) Requests for exceptions to any Section in this Part that which is not statutorily mandated may be submitted to the Department. Requests ~~Such requests~~ shall be made by the Authorized Organization Representative to the Associate Director Department in writing, indicating the specific basis, rationale and need for the exception. Requests for exceptions may be made by any Department staff or provider.
- b) In order to maintain uniformity to the greatest extent feasible, the Department will endeavor to keep exceptions to a minimum. Prior to granting any exception, the Department shall consider, but not be limited to, the following factors: the organization's patient or client population and size; type of services; geographic location; client or patient well-being if the exception is granted; and the specific geographic location of the organization and the accreditation status of the organization, as applicable.
- c) Exceptions are at the sole discretion of the Department and the decision of the Associate Director is final. ~~Exceptions to Sections~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

and have an emergency evacuation plan, including provisions for disabled persons; and

- 2) have areas for confidential interviewing, counseling, and administration and public reception and waiting areas.
- d) Residential extended care facilities shall comply with the provisions specified in Chapter 20 (Lodging or Rooming Houses) of the National Fire Protection Association's (NFPA) Life Safety Code of 2000 ~~1994~~ for any building housing 16 or fewer residents and with the provisions specified in Chapter 17 (Existing Hotels and Dormitories) of the NFPA Life Safety Code of 2000 ~~1994~~ for any building housing 17 residents or more.
- e) Inpatient treatment facilities shall comply with the provisions specified in Chapter 16 (New Hotels and Dormitories) of the NFPA Life Safety Code of 2000 ~~1994~~.
- f) All existing outpatient treatment facilities shall comply with Chapter 27 (Existing Business Occupancies) of the NFPA Life Safety Code of 2000 ~~1994~~. Any outpatient treatment facility constructed after promulgation of this Part shall comply with Chapter 26 (New Business Occupancies) of the NFPA Life Safety Code of 2000 ~~1994~~.
- g) Organizations shall also ensure, as applicable:
 - 1) that each bedroom is kept clean and organized;
 - 2) that each bedroom is occupied only by those of the same sex, except in situations where children are in residence with a parent in treatment;
 - 3) a separate bedroom is provided for any 16 or 17 year old patient admitted to an adult inpatient service;
 - 4) a minimum of 80 square feet is provided in a single bedroom and 60 square feet per bed in a multi-bed room with no more than four beds per room;
 - 5) at least three feet of space is provided at the foot or head and one side of each bed and at least three feet between each bed;
 - 6) that bunk beds will not be used for any detoxification patient and all other beds shall be non-folding, at least 36 inches wide and have flame retardant mattresses;
 - 7) that each inpatient bedroom is an outside room with not less than the equivalent of ten percent of its floor area devoted to windows, which shall be covered with curtains, blinds, or shades;
 - 8) that no inpatient bedroom opens into the kitchen or necessitates passing through the kitchen to reach any other part of the facility;
 - 9) that no bedroom is in an attic or in an area with a floor more than three feet below the adjacent ground level;
 - 10) that each inpatient has a wardrobe, locker, or closet;
 - 11) that each bedroom has a swinging door no less than 32 inches in width that ~~which~~ opens directly into a corridor or to the outside;
 - 12) that doors in inpatient facilities that lead to corridors shall not be lockable from the inside;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 13) that each bathroom contains a toilet and sink and that each tub or shower is enclosed with space for drying and dressing (the sink may be omitted from a bathroom that ~~which~~ serves two adjacent bedrooms if each of these rooms contains a sink);
- 14) that a bathroom is accessible to each central bathing area and that a minimum of one toilet, one sink and one bathtub or shower for each sex shall be provided on each inpatient floor occupied by both sexes;
- 15) that one sink, one toilet and one bathtub or shower is provided for each eight beds on each floor where bathrooms are not adjacent to bedrooms;
- 16) that all bathrooms are well lighted and vented to the outside, either by means of a window that can be opened or by an exhaust fan; that no bathroom, other than the one used for employees, shall open directly into a kitchen, pantry, food preparation area or food storage room;
- 17) that in inpatient facilities with a capacity to serve more than 20 patients, a separate enclosed room is available for group counseling, other than the one used for recreation or dining in ~~any facility with a capacity to serve more than 24 patients;~~
- 18) that any facility that provides 24 hour care or that provides any meals shall do so under the direction, as an employee or through a contractual agreement, of a ~~licensed dietitian~~ ~~bicensed dietitian~~ ~~nutrition counselor~~ ~~licensed nutrition counselor (LNC);~~
- 19) that the dietitian or licensed nutrition counselor shall develop a written plan for the provision of food services that ~~which~~ describes either the organization of the food service and the delivery of food services or the arrangements for the provision of such services to patients;
- 20) that all nutritional aspects of patient care, including any specific dietary patient needs, shall be under the direction of the licensed dietitian, the licensed nutrition counselor or other persons who are supervised by the licensed dietitian or the licensed nutrition counselor;
- 21) that the dining area is supervised and staffed to provide assistance to the patients when needed, shall be sized and equipped to accommodate the age and number of patients served and shall be separate from the kitchen area;
- 22) that the preparation or cooking of regularly scheduled hot meals is restricted to kitchen areas that ~~which~~ shall be designed and equipped to meet the requirements of the services provided, including provisions for food receiving, storage, and preparation, dish and pot washing, and waste disposal;
- 23) that there is access to a handwashing sink and toilet and that all equipment and appliances are installed to permit thorough cleaning of all equipment, walls, baseboards, and non-absorbent floor material and that each kitchen has an Underwriters

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Laboratories (U.L.) approved five pound class B+C dry chemical fire extinguisher; and

24) that if laundry is done at the facility, space for soiled linen sorting, laundry equipment, including washers and dryers, and clean linen storage space is provided. If laundry is done outside the facility, a soiled linen storage room or area shall be provided.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.309 Professional Staff Qualifications

- a) All professional staff providing clinical services (except as set forth in subsection (b)(2)), as defined in this Part, shall:
- 1) hold clinical certification as a Certified Alcohol and Drug Counselor from the Illinois Alcoholism and Other Drug Abuse Professional Certification Association (IAODAPCA), 1335 Wabash Avenue, Suite L, Springfield, Illinois 62704; or
 - 2) be a licensed professional counselor or licensed clinical professional counselor pursuant to the Professional Counselor and Clinical Professional Counselor Licensing Act (225 ILCS 107); or
 - 3) be a physician licensed to practice medicine in all its branches pursuant to the Medical Practice Act of 1987; or
 - 4) be licensed as a psychologist pursuant to the Clinical Psychology Practice Act (225 ILCS 15); or
 - 5) be licensed as a social worker or licensed clinical social worker pursuant to the Clinical Social Work and Social Work Practice Act (225 ILCS 20).
- b) All professional staff providing only clinical assessments, DUI evaluations or designated program intervention services, as defined in this Part, shall:
- 1) meet one of the qualifications specified in subsection (a) above; or
 - 2) hold assessor certification as a Certified Assessment and Referral Specialist (CARS) from IAODAPCA.
- c) In any medically managed or monitored detoxification service at least one staff, 24 hours a day, shall:
- 1) be a registered nurse pursuant to Section 3(k) of the Illinois Nursing and Advanced Practice Nursing Act of 1987 (225 ILCS 65/3(k));
 - 2) be a licensed practical nurse pursuant to Section 3(i) of the Illinois Nursing and Advanced Practice Nursing Act of 1987 (225 ILCS 65/3(i)) who has completed at least 40 clock hours of formal training in the field of alcoholism or other substance abuse; or
 - 3) be a certified emergency medical technician pursuant to Section 4.12 of the Emergency Medical Services (EMS) Systems Act (210 ILCS 50/4.12) who has completed at least 40 clock hours of formal

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- training in the field of alcoholism or other substance abuse.
- j) Any other staff who provide direct patient care that is not defined as a clinical service shall be supervised by an individual who meets the requirements for professional staff as defined in subsection (a), (b) or (c)(1) and (2) as applicable to detoxification.
- e) Any new professional staff, including interns, who will provide clinical services in a treatment or designated program service and who do not meet the requirements of subsection (a) or (b) when hired shall:
- 1) meet the requirements specified in subsection (a) or (b) within two years after the date of after employment; and
 - 2) not work in any supervisory capacity until such requirements are met; and
 - 3) work under the direct, verifiable supervision of an individual who has staff supervisory responsibility at the facility and who meets the requirements for professional staff specified in subsection (a) or (b); and
 - 4) sign, and adhere to, a professional code of ethics developed by the organization.
- f) The above referenced supervision shall last until the employee meets at least one of the requirements for professional staff designation specified in subsection (a) or (b) or until the two year period has elapsed. Such supervision is verifiable, at a minimum, by:
- 1) signature of the supervisor and the affected employee on the treatment plan and all reviews of or any change to the patient's treatment plan; and
 - 2) documentation of face-to-face supervision meetings, at least once monthly. This supervision can occur in a group or individual setting and shall be a distinct activity separate from regularly scheduled patient staffings.
- g) Any employee providing clinical services under supervision at one or more organizations who does not meet at least one of the requirements specified in subsection (a) or (b) within the relevant two year period or any current employee working at more than one organization who does not meet the requirements specified in this Section within one year after the effective date of this Act shall not provide any direct clinical services at the end of the two years until such requirement is met.
- h) All staff providing DUI risk education services shall:
- 1) meet one of the qualifications specified in subsection (a); or
 - 2) hold certification from IAODAPCA.
- i) It is the responsibility of each organization to ensure that all professional staff meet the requirements outlined in this Section.
- j) The Department will consider granting an exception to the requirements specified in subsection (e) of this Section based upon timing of certification or licensure examinations and part-time employment. In such cases, the exception will be time limited and based upon the minimum extension of time necessary to achieve full compliance. All

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

exceptions shall be granted in accordance with Section 2060.303 of this Part.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2060.311 Staff Training Requirements

- a) All organizations shall provide an initial employee orientation to all staff within the first seven days after employment that shall include, at a minimum, the following information:
 - 1) An overview of all organization operations, including the specific duties assigned to the employee; emergencies and disaster drills; familiarization with existing staff backup and support; and all required training.
 - 2) An overview of this Part for all staff.
 - 3) Information on bloodborne pathogens and universal precautions (as those terms are defined in the regulations set forth in Section 2060.413 of this Part) and the importance of tuberculosis control and personal hygiene, the responsibilities of all staff with regard to infection control and an overview of the fundamentals of HIV, AIDS and tuberculosis control.
 - 4) Information on HIV and AIDS relative to the etiology and transmission of HIV infection and associated risk behaviors, the symptomatology and clinical progression of HIV infection and AIDS and their relationship to substance abuse behavior, the purposes, uses and meaning of available testing and test results, relapse prevention and sensitivity to the issues of an HIV infected patient.
 - 5) An overview of the principles of patient confidentiality, all related federal and State statutes and all record keeping requirements regarding confidential information.
- b) ~~Within the first six months after the effective date of this Part each organization shall send at least one management or professional staff member to a Part 2060-Rules-Orientation--training-session--this training shall be conducted by the Department and will be offered free of charge.~~
- he) Within the first six months after employment, any and all staff providing a DUI evaluation service shall attend one complete DUI Orientation training session offered or approved by the Department.
- gd) Within the first 12 six months after employment, any and all staff providing a DUI risk education intervention service shall attend the first day of a DUI Orientation training session offered or approved by the Department. ~~Thereafter each instructor shall obtain a minimum of twelve additional hours of substance abuse training annually.~~
- d) In addition to mandatory training specified in subsections (b) and (c) of this Section, each DUI evaluator or Risk Education instructor shall obtain additional hours of substance abuse training annually

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

consistent with the requirements of their professional staff credential.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2060.313 Personnel Requirements and Procedures

- a) All professional staff:
 - 1) shall be at least 18 years of age; and
 - 2) cannot have been convicted of any felony or had any subsequent incarceration for at least two years prior to the date of employment.
- b) Verification of the requirements specified in subsection (a) above shall be documented on the Department's Schedule L at the time of employment and this form shall be maintained in the employee's personnel file. Prior to employment a copy of the Schedule L, along with a letter requesting an exception for employment, shall be sent to the Department relative to any person that indicates a felony conviction within the time period specified above.
- c) In addition, any staff providing DUI evaluation or risk education services shall not have a suspension or revocation of driving privileges for an alcohol or drug related driving offense for at least two years prior to the date of employment.
- d) Any staff providing clinical services to or any other supportive services for a child or adolescent who is receiving treatment at a facility, or is receiving child care at a facility, or is residing at a facility with a parent who is in treatment shall consent to a background check to determine whether they have been indicated as a perpetrator of child abuse or neglect in the Child Abuse and Neglect Tracking System (CANTS), maintained by the Department of Children and Family Services State-Central-Register as authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5/11.1(15)]. The organization shall have a procedure that which precludes hiring of indicated perpetrators based on the reasons set forth in 89 Ill. Adm. Code 385.30(e) and procedures wherein exceptions will be made consistent with 89 Ill. Adm. Code 385.30(e) and procedures for record keeping consistent with 89 Ill. Adm. Code 385.60.
- e) The organization shall ensure that treatment services for special populations (gender, youth, criminal justice, HIV, etc.) are delivered by appropriate professional staff as clinical needs indicate.
- f) The organization shall have written personnel procedures approved by the management or, if applicable, the board of directors. Such procedures shall apply to all full and part-time employees and shall include the process for:
 - 1) recruiting, selecting, promoting and terminating staff;
 - 2) verifying applicant or employee information;
 - 3) protecting the privacy of personnel records;

DEPARTMENT OF HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

- 4) performance appraisals, and review and update of job descriptions, for all positions in the organization;
 - 5) disciplinary action, including suspension and termination;
 - 6) employee grievances;
 - 7) employment related accident or injury;
 - 8) handling instances of suspected or confirmed patient/client abuse and/or neglect by staff, whether paid or volunteer;
 - 9) handling instances of suspected or confirmed alcohol and other drug abuse by staff; and
 - 10) documentation that the personnel procedures, and any changes in procedures, have been distributed to employees and are available on request.
- g) The organization shall provide documentation that all personnel procedures have been reviewed and approved at least annually by the Authorized Organization Representative ~~authorized services representative or, if applicable, the board of directors.~~
- h) A personnel file shall be maintained for each employee that contains:
- 1) the employee's name, address, telephone number, social security number, emergency contact and telephone number;
 - 2) resume and evidence of qualifications;
 - 3) documentation of the Schedule L and any relevant background checks and/or exception request;
 - 4) unless otherwise kept in a training file, documentation of required training and continuing education received while employed by the organization (as indicated by a certificate of completion or the title, date and location of the training and the signature of the staff member who attended the training);
 - 5) a copy of any professional certification, current license and/or registration, and date of employment and/or termination from the organization; **and**
 - 6) a copy of the signed applicable professional code of ethics as referenced in Part 2060.309(e)(4) of this Part; and;
 - 7) documentation of annual review of the organization's policy and procedures manual by all staff during their first year of employment and, annually thereafter, any updated sections that pertain to each staff member.
- i) Each personnel file shall be maintained for a period of five years from the date of employee termination.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.315 Quality Improvement

- a) The licensee shall design and utilize a quality improvement plan. Such plan shall be written and shall contain, at a minimum, a method of evaluation to assess achievement of the organization's mission and the functioning of the organization and its service delivery systems

- and utilization review process.
- b) The quality improvement plan shall be approved by management or, if applicable, the board of directors of the organization and annually reviewed and revised as necessary.
- c) The evaluation shall contain, at a minimum:
- 1) a mission statement for the organization;
 - 2) specific and measurable goals, objectives, activities and outcome standards that are utilized by the organization to achieve its missions and projected results;
 - 3) a description of how the organization will review and implement needed changes based on the results of the evaluation;
 - 4) a method to review use of medication in any level of care;
 - 5) a method of risk management that, at a minimum, includes:
 - A) review and analysis of any incident or significant incident reports as referenced in Section 2060.331 of this Part; and
 - B) design and implementation of necessary procedures to address both proactively and reactively any identified risks; and
 - 6) a method of utilization review to measure appropriate patient placement.
- d) The method of organization evaluation shall be submitted with the application for licensure. The results of the evaluation shall also be available for inspection by the Department and submitted at the time of application for renewal of licensure.
- e) Utilization Review
- 1) For treatment licensees, utilization review shall be conducted at least quarterly ~~in accordance with the time frame established in Section 2060.423(f)(2) of this Part~~ and shall be conducted on a minimum 15% sample. If random sampling at 15% indicates problems, the organization will develop a specific remediation plan to correct the identified problems. Utilization review shall be conducted in accordance with continued stay and discharge criteria as established in the ASAM Patient Placement Criteria.
 - 2) For DUI evaluation or designated program intervention licensees, utilization review shall:
 - A) be conducted at least quarterly on randomly selected cases consisting of at least 15% (but no less than five and no more than 20) of persons receiving each service; and
 - B) be based on the established criteria specified in this Part for the applicable category of intervention license relative to the substance abuse assessment or evaluation and subsequent intervention or referral.

- f) All organizations required to conduct utilization review shall also:
- 1) specify all staff participating in utilization review;
 - 2) specify how conflict of interest shall be addressed in any small organization where professional staff cannot always avoid reviewing their own cases; and
 - 3) issue a report of finding from utilization review at least

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

quarterly and make such report available to all professional staff.

- g). Treatment licensees who are not otherwise required to report data electronically to the Department shall maintain statistics that which, at a minimum, determine the total number of assessments, admissions, and discharges per patient by type of discharge and the average length of stay in each level of care.

- h) DUI risk education and recovery home services shall not be subject to utilization review as specified in subsection (e).

- i) All treatment and intervention licensees shall develop and maintain a written policy and procedures manual that describes the operation of the organization. At a minimum, the manual shall explain how the organization will comply with all Federal and State regulatory and contractual requirements, any additional requirements from independent accrediting bodies, and any other organizational policies and procedures. The manual shall be approved by the board of directors of the organization or, if not applicable, the organization representative and annually reviewed and revised as necessary. The manual shall be submitted to the Department at the time of licensure and upon request from Department staff. The manual shall also be reviewed during the first year of employment by all staff. Annually thereafter, the organization shall ensure that all staff shall review updated sections pertinent to such staff.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.317 Service Fees

- a) A fee schedule shall be established that which specifies the fee charged for all treatment and intervention services and any other related services and that which also specifies or estimates the amount for which the individual might be responsible based upon the anticipated length of stay in treatment or the type of intervention service.

++ this fee schedule shall be shown to every person as part of the admission process or prior to the beginning of any intervention service.

2) this fee schedule shall also specify any limitation or restriction in the amount that can be charged to any person who is eligible for any type of federal or State subsidization for payment of the applicable service.

- b) Each person shall be given a fee schedule prior to the beginning of any treatment or intervention service for which the organization intends to seek reimbursement from the individual, indicating the amount that he or she will be responsible to pay along with any relevant payment schedule for each service. However, any person receiving any type of State or federal subsidization for full

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

or partial payment of the service shall first provide proof of qualifying status as specified by the guidelines established for the specific subsidy. Such proof shall be relative to the current State fiscal year in which services are received. Documentation of this proof and the fee statement shall be kept in the patient record or in a separate patient financial record.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.325 Patient/Client Records

- a) Licensees shall maintain a written record for each patient or client. Such record may also be maintained electronically on a computer but shall be made available in hard copy upon request for review by the Department.

- b) Any written entry on the record shall be in ink and shall be dated and shall meet all other signatory requirements for professional staff as specified in Sections 2060.421 and 2060.423 of this Part.

- c) Written signatures or initials and electronic signature or computer-generated signature codes and corresponding dates are acceptable as authentication to identify the author of the record entry by that author and to confirm that the contents are what the author intended. Signature or initial stamps shall not be utilized.

- d) All signatures or initials, whether written, electronic, or computer-generated, shall include the initials of the signer's credentials.

- e) In order to utilize electronic signature or computer-generated signature codes and dates, the organization shall adopt a policy that permits use and authentication by electronic or computer-generated signature and dates and shall, at a minimum:

- 1) identify which staff are authorized to authenticate records using electronic or computer-generated signatures and dates;
- 2) ensure that each user is assigned a unique identifier that is generated through a confidential access code;
- 3) certify in writing that each identifier is kept confidential; and
- 4) have each user certify in writing that he or she is the only person with user access to the identifier and the only person authorized to use the signature code.

- f) Records maintained on computer shall have a back-up system to safeguard the records in the event of operator or equipment failure.

- g) Any document or entry made on a document in the record that is in any other language than English shall have an accompanying English language translation.

- h) All records shall be protected in a locked room, locked file, safe or similar container or in computer records with secure, limited access.

- i) The record shall document any service provided by the organization at any facility. Additionally, if the organization provides multiple

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- services that are licensed by the Department at any facility, one record can document all of such services.
- j) The record shall contain the signatory document that indicates the patient/client has been informed of his or her rights.
- k) The record shall contain documentation indicating the consent of the patient, and any other family members or guardians, for any service.
- l) The record shall contain, on a standardized format, the following information:
- 1) name;
 - 2) home address;
 - 3) home and work telephone number;
 - 4) date of birth;
 - 5) sex;
 - 6) race or ethnic origin and/or language preference;
 - 7) emergency contact;
 - 8) education;
 - 9) religion;
 - 10) marital status;
 - 11) type and place of employment;
 - 12) physical or mental disability, if any;
 - 13) social security number, if requested;
 - 14) driver's license number, county of residence and county of arrest (required only for DUI evaluation or risk education services); and
 - 15) annual household income, if applicable to any subsidized or reduced fee for service, unless this information is kept in a separate financial record.

- m) The record shall contain dates of any admission, change in level of care or discharge.
- n) The record shall contain a dated service fee statement and proof, if applicable, of any qualifying documents relative to fee subsidization, including the "Qualification for DUI Services as an Indigent" form, unless this information is kept in a separate financial record.
- o) The record shall be kept for a period of five years from the date of discharge. While organizations may elect to keep records past this five year period, if the option to delete records is exercised, it shall be done by one of the following methods:
- 1) burning or shredding; or
 - 2) erasure from all computer files.
- p) The record shall contain the following information or documents for any treatment service:
- 1) documentation of the treatment assessment and patient placement process;
 - 2) documentation of the diagnostic impression and physician confirmed diagnosis;
 - 3) documentation of any laboratory and/or other diagnostic procedure results and reports that the organization directly provided or any medical services received (except for HIV testing

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

unless the patient has given written informed consent) and documentation of the tuberculin skin test results, the date given and date read, if applicable;

- 4) the treatment plan and documentation of all required signatures and dates;
 - 5) progress notes that document all treatment services, any subsequent treatment plan reviews and on-going assessment and documentation of all required signatures and dates;
 - 6) documentation of completion of patient education specified in Section 2060.409 of this Part;
 - 7) documentation of any correspondence or telephone calls received or made relevant to treatment services; and
 - 8) a copy of the discharge summary unless the patient left prior to receiving any of these services.⁷ and
 - 9) ~~documentation of any incident-report or significant incident report that is specifically relevant to the patient's care.~~
- q) The record shall contain copies of all referenced forms in Subpart E for any offender receiving a DUI evaluation or risk education service.
- r) A staff member shall be designated who will have responsibility to ensure that all records are in compliance with this Part. This staff member shall review, at least annually, the record system to ensure that the system meets all requirements specified in this Part.
- s) Records shall be kept in the facility where the patient/client is receiving service (or in accordance with Section 2060.203(b) of this Part, in specific relation to off-site services) and shall be directly accessible to the professional staff providing the service.
- t) Information in the record may be used for training, research and quality improvement provided that the such information is collected in accordance with any relevant confidentiality requirements.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART D: REQUIREMENTS - TREATMENT LICENSES

Section 2060.401 Levels of Care

Substance abuse treatment shall be offered in varying degrees of intensity based on the level of care in which the patient is placed and the subsequent treatment plan developed for that patient. The level of care provided shall be in accordance with that specified in the ASAM Patient Placement Criteria and with the following:

- a) Level 0.5: Early Intervention
An organized service, delivered in a wide variety of settings, for individuals (adult or adolescent) who, for a known reason, are at risk of developing substance-related problems. Early intervention services are considered sub-clinical or pre-treatment and are designed to explore and address problems or risk factors that appear to be related

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

to substance use and to assist the individual in recognizing the harmful consequences of inappropriate substance use. The length of such service varies according to the individual's ability to comprehend the information provided and to use that information to make behavior changes to avoid problems related to substance use or the appearance of new problems that require treatment at another level of care. Early intervention services are for individuals whose problems and risk factors appear to be related to substance use but do not appear to meet any diagnostic criteria for substance related disorders. Examples of individuals who might receive early intervention are at-risk individuals (i.e., family members of an individual who is in treatment or in need of treatment) or DUI offenders classified at a moderate risk level.

b) Level I: ~~formerly Outpatient~~

Non-residential substance abuse treatment consisting of face-to-face clinical services for adults or adolescents. The frequency and intensity of such treatment shall depend on patient need but shall be a planned regimen of regularly scheduled sessions that average less than nine hours per week.

c) Level II: ~~formerly Intensive Outpatient/Partial Hospitalization~~

Non-residential substance abuse treatment consisting of face-to-face clinical services for adults or adolescents. The frequency and intensity of such treatment shall depend on patient need but shall be a planned regimen of scheduled sessions for a minimum of nine hours per week.

d) Level III: ~~formerly Inpatient/Residential~~

Residential substance abuse treatment consisting of clinical services for adults or adolescents. The frequency and intensity of such treatment shall depend on patient need but shall, except in residential extended care as defined in this Part, include a planned regimen of clinical services for a minimum of 25 hours per week. Inpatient care, with the exception of residential extended care as defined in this Part, shall require staff that are on duty and awake, 24 hours a day, seven days per week. During any work period, if professional staff as defined in Section 2060.309(a) of this Part are not on duty, such staff shall be available on call for consultation relative to any aspect of patient care.

Residential extended care shall require staff on duty 24 hours a day, seven days per week and that low intensity treatment services be offered at least five hours per week. Any staff providing clinical services shall meet the requirements for professional staff as defined in Section 2060.309(a) of this Part. Individuals who have been in residence for at least three months without relapse may be used to fulfill any remaining staff requirements.

e) Level IV: Medically Managed Intensive Inpatient

Residential substance abuse treatment for patients whose acute bio/medical/emotional/behavioral problems are severe enough to require primary medical and nursing care services. Such services are for

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

adults or adolescents and require 24 hours medically directed evaluation, care and treatment and that a physician see the patient daily.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.405 Detoxification

The medical director, as referenced in Section 2060.413 of this Part, shall develop protocols and authorize procedures for the medical supervision of and the staffing pattern for any patient receiving ambulatory or clinically managed residential detoxification as specified in the "ASAM Patient Placement Criteria. ~~When protocols, at a minimum, shall specify that such detoxification is for adults only (17-year-olds may be included provided that their assessment includes justification based on behavior and life experience). All other detoxification shall be medically monitored or managed by a physician according to the specifications contained in the ASAM Patient Placement Criteria and as follows:~~

a) Medically Monitored (Level III, 7-D)

~~Medically monitored detoxification is for adults and adolescents. Only 17-year-olds may be included provided that their assessment includes justification based on behavior and life experience. When utilized during inpatient treatment, at least two staff persons shall provide 24 hour observation, monitoring and treatment, one of whom shall meet the staff qualifications specified in Section 2060.309(c) of this Part.~~

b) Medically Managed (Level IV-D)

Medically managed detoxification is for adults and adolescents. However, medically managed opioid maintenance therapy shall only be used for adolescents age 16 and 17. ~~At when utilized during inpatient treatment, at least two staff persons shall provide 24 hour observation, monitoring and treatment, one of whom shall meet the staff qualifications specified in Section 2060.309(c) of this Part.~~ Medically managed detoxification also requires that a physician see the patient daily.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.407 Group Treatment

Group treatment shall consist of didactic and counseling groups as follows:

a) Didactic groups are, but are not limited to, a therapeutic activity the ~~whose~~ primary purpose of which is to educate patients and their significant others on a specific treatment related topic in a group setting. All didactic groups shall be led or supervised by professional staff or by other professionals with credentials specific

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

to the subject matter of the didactic group following a lesson plan or outline approved by the organization. Justification for all patients who attend any didactic group needs to be documented. Didactic groups should not exceed an average of 24 people.

- b) Counseling groups are, but are not limited to, a therapeutic activity ~~the~~ **whose** primary purpose of which is to allow patients or their significant others an opportunity to process issues related to their treatment in a group setting. Counseling groups can have a specific focus (i.e., women, relapse, cocaine, etc.) but are generally less educational and more process oriented than didactic groups. All counseling groups shall be facilitated by professional staff. Justification for all patients who attend any counseling group needs to be documented as an assessed need. Counseling groups ~~should have~~ **an average size of twelve patients but at no time shall exceed 16 15** patients per group.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.409 Patient Education

All organizations shall develop a patient education plan that specifies all patient education that is available at the facility and ensures that all patients are informed about this plan and the mandatory elements of it (as specified in this Section) prior to or during the development of the treatment plan. Patient education may be provided individually or in a group in accordance with the group size specifications contained in Section 2060.407 of this Part. Such education shall be provided to each patient at least once and documented as such in the patient record. Upon subsequent admissions, the need for such education may be determined by the organization. At a minimum, the patient education plan shall include the following:

- a) Information about the benefits and risks of all medications prescribed by the organization's medical director or physician working under his or her supervision/direction, laboratory tests performed by the organization's medical director or physician working under his or her supervision/direction, and treatment ~~possibilities~~, all ~~relevant~~ **relevant to** patient conduct, and patient rights, and all Department rules relative to confidential patient information as referenced in Section 2060.319 of this Part.

- b) Initial AIDS risk reduction counseling and education services and tuberculosis information consisting of the following components:

- 1) Education relative to infectious disease control and HIV/AIDS that ~~which~~ shall provide information about the etiology and transmission of HIV infection and associated risk behaviors, symptomatology and clinical progression of HIV infection and AIDS and their relationship to substance abuse behavior, prevention of transmission and risk reduction (including information about needle sharing, sexual transmission, transmission to infants,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

etc.), the availability of counseling and testing services, the confidentiality rights of the patient regarding ~~the~~ **the** testing and HIV status and relapse prevention.

- 2) Education relative to infectious disease control and tuberculosis that ~~which~~ shall include information about its transmission and prevention, the importance of diagnosis, the requirement for skin testing and the interpretation of skin test results, the importance of x-rays for positive test results and HIV infected persons, the importance of treatment regimens and the basic symptoms associated with tuberculosis.

- c) Upon completion of any mandatory education specified in this Section, documentation shall be placed in the patient record. That ~~such~~ documentation shall specify the type of education received, and the date received, and shall be signed by the patient if the ~~such~~ documentation is maintained separately from the treatment plan.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.413 Medical Services

- a) Medical Director

- 1) Any organization providing treatment services shall designate a medical director, who is licensed and in good standing to practice medicine in all its branches in Illinois, who shall oversee all medical procedures.

- 2) The medical director may be part-time or serve on a consulting basis and the name and professional license number of the medical director shall be designated on the application for licensure.

- 3) The medical director as well as all medical and nursing staff shall read and comply with this Part.

- 4) The Department shall be notified in writing, within 10 ~~ten~~ calendar days, of any change in medical directors.

- b) Medical Screening

- 1) The medical director shall develop and authorize a medical screening form that ~~which~~ shall be completed for each patient prior to admission to Levels I-IV care that shall be used, at a minimum, to assess acute intoxication and/or withdrawal potential, biomedical conditions or complications, and emotional/behavioral conditions and complications. ~~The~~ **As such,** the medical screening shall include, but not be limited to, inquiry in the following areas:

- A) primary complaint per patient;
B) date of last physical exam and the name of the patient's primary care physician;
C) history of substance use;
D) history of past withdrawal symptoms;
E) history of concurrent medical symptoms, complications or

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

conditions, including sexual activity and risk for pregnancy;
F) history of concurrent psychiatric symptoms, complications or conditions, including suicide/homicide potential;
G) history of recent trauma (including physical/sexual abuse);
H) hospitalizations;
I) medications currently prescribed and any allergies to medications; and
J) infectious or communicable diseases.

- 2) The medical director shall designate the factors in a medical screening, including a determination of the patient's risk for HIV and or tuberculosis infection, and the specific medications prescribed or used by a patient that would require physician review if such medical screening is not conducted by a physician.
- 3) The purpose of physician review is to determine the immediate need for a medical referral for a physical or psychiatric examination, if determined necessary, physician review may be by phone, facsimile transmission, or in person, and shall occur no later than within 24 hours after admission to Level IV care, within 48 hours after admission to Level III care, and within 72 hours after admission to Levels I and II care.
- 4) A patient shall be referred for medical, surgical, obstetric, prenatal or psychiatric treatment or laboratory services as determined necessary by the medical director or other physician.
- 5) All pregnant women admitted for any type of detoxification shall be subject to physician review as defined in subsection (b)(3) of this Section.
- 6) Any patient under the age of 12 twelve admitted to adolescent treatment shall be subject to physician review as defined in subsection (b)(3) of this Section.

c) Physical Examinations

- 1) The medical director shall develop protocol and authorize procedures for any physical examination of a patient that which shall, at a minimum, specify the professional requirements for any individual who shall conduct the such physical examinations under the supervision of the medical director.
- 2) Physical examinations are not required for any patient in Level I or II care unless otherwise indicated by the specifications in subsection (b)(3) of this Section.
- 3) All inpatients (Levels III and IV care), with the exception of those individuals in residential extended care as defined in this part, shall undergo a physical examination within 72 hours after admission if on prescription medication or pregnant. All other patients in such care shall undergo a physical examination within 7 days after admission.
- 4) Patients may provide documentation of a physical examination completed within 7 calendar days prior to admission to Level III and IV care and 30 calendar days prior to admission to

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

residential extended care that and--such--examination may be accepted by the medical director in lieu of an additional physical examination.

- d) All organizations shall have first aid kits and, when such services are not directly provided, a written agreement with a licensed hospital or medical center for the provision of physical examinations, laboratory tests and emergency medical services and, if applicable, for high risk prenatal care and transportation during emergencies.

- e) When nursing services are provided, a registered nurse shall plan, assign, supervise and evaluate all nursing care.
- f) Medication dispensary services shall be in accordance with the Medical Practice Act of 1987 (225 ILCS 60); the Pharmacy Practice Act (225 ILCS 85); the Illinois Controlled Substances Act (720 ILCS 570); the Poison Prevention Packaging Act (15 USC 855-86f, 1471); substances requiring special packaging (16 USC 1700-14); and rules and regulations of the U.S. Drug Enforcement Administration (21 CFR 1301.71-1301.76, 1304, and 1307.2 (1989, no later amendments or editions included)).

- g) The administration or dispensing of patient-owned medications shall comply with the following:

- 1) patients shall surrender all medications on admission;
- 2) medications brought by patients shall not be administered unless they can be absolutely identified and unless written orders to administer these specific drugs are given by the authorized prescriber and are confirmed in writing in the patient record;
- 3) self-administration of medication shall be permitted only when specifically ordered by the authorized prescriber;
- 4) self-administration of medication shall be documented, including the date, time, and dosage of all medications issued;
- 5) in those cases where patients are unable to self-medicate, medication shall be dispensed or administered only by a practitioner. An exemption from these requirements may be requested provided that an alternate protocol for handling patient-owned medications is submitted and that the protocol is approved by the medical director;
- 6) any drugs that the patient brings that are not used shall be packaged, sealed, and stored, and, if approved by the authorized prescriber, returned to the patient, family, or significant others at the time of discharge; and
- 7) medications for minors who are in residence with patients shall be reviewed by the authorized prescriber. Permission to keep medication at bedside in their possession and self administer to one's dependent minors shall be given by the authorized prescriber.

- h) Opioid Maintenance Therapy

- 1) Any treatment service that uses methadone or LAAM for the treatment of opioid addiction shall comply with the provisions of 21 CFR 291.505 (2001, no later amendments or editions included)

DEPARTMENT OF HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

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2) The social security number for each patient shall be obtained and used in all circumstances requiring patient identification; i.e., medication logs, take-home bottles, exception requests, and general correspondence.

3) Organizations shall obtain prior written approval from the Department for exceptions as referenced in 21 CFR 505 (2001 §995) relative to more than a three day supply of take-home medication and shall utilize the Department's Schedule H when requesting such exceptions. Documentation of each such exception granted or any other exception granted by organization staff shall be maintained in the patient record. Such documentation shall include, but need not be limited to:

A) the circumstances that made the exception necessary;

B) the dates and locations involved and the methadone or LAAM dosage; and

C) the name, title and signature of the staff person who granted the exception.

4) On the first day of each month a log listing all exceptions granted during the previous month shall be forwarded to the Department. Organizations shall also utilize medication accounting forms supplied by the Department. These forms shall be completed weekly and maintained for inspection by State and federal inspectors or investigators either on-site or via mail.

5) Triplicate medication logs for dispensing methadone or LAAM shall also be used. These logs are provided by the Department and are official prescription forms that which shall be signed by the authorized prescriber and forwarded to the Department every week. Computer generated medication logs may be utilized when approved by and compatible with Department data/prescription needs.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.415 Infectious Disease Control

a) Licensees shall be in compliance with guidelines issued by the U.S. Centers for Disease Control and Prevention "Recommendations for Prevention of HIV Transmission in Health Care Settings"; MMWR 1987;36 (no. 25); known as "Universal Precautions"; and "Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and other Bloodborne Pathogens in Healthcare Settings"; MMWR 1988;37 (no. 24), and with the Department of Labor rules for Occupational Exposure to Bloodborne Pathogens, 29 CFR Part 19.10-1030. No later amendments or editions of these incorporated materials are included.

b) Tuberculosis Control and Services

1) Any organization providing treatment services shall have its

medical director Medical Director or other designated staff be responsible for developing, reviewing annually and evaluating the effectiveness of a tuberculosis infection control plan based on a tuberculosis risk assessment of the facility following the protocol for conducting a tuberculosis (TB) risk assessment, in a health care facility in Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health Care Facilities, MMWR 1994 (no. RR13) (no later amendments or editions included), hereafter referred to as CDC Guidelines, which should, at a minimum, include:

A) a medical screening of each patient for infections, communicable tuberculosis as required in Section 2060.413(b) 2060.414(b) of this Part;

B) identification of patients at increased risk of being infected with tuberculosis, using a standardized screening tool, and provision of tuberculosis services, either directly or through referral with other public, nonprofit or private entities;

C) procedures for the immediate reporting of patients with, or suspected of having, active, infectious tuberculosis to the local tuberculosis control agency and a process for isolation of such patients from the general population until the patient is determined to be non-infectious. Provisions shall be made for respiratory isolation (by linkage with other health care providers and the local tuberculosis control agency) for substance abuse treatment if and when possible and appropriate;

D) procedures for providing prompt and appropriate curative therapy directly by the organization or by referral. Such medical care provided shall be consistent with standards specified by the Centers for Disease Control and Prevention, Treatment of Tuberculosis and Tuberculosis Infection in Adults and Children (American Thoracic Society, Medical Society of the American Lung Association and U.S. Department of Health and Human Services). Am. J. Respir. Crit. Care Med. vol. 149, pp. 1359-1374, 1994 (no later amendments or editions included);

E) procedures (by way of linkage with other health care providers and with the local health department) for isolation of patients who may have active infectious tuberculosis;

F) procedures for lessening the risk of environmental transmission within the facility; and

G) procedures for meeting State reporting requirements while adhering to confidentiality requirements specified in Section 2060.319 of this Part and in 42 CFR Part 2.

2) Employee Skin Testing and Management

A) All staff shall have a tuberculin skin test using the

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

who have not completed treatment or prevention therapy shall be medically evaluated for symptoms of infectious tuberculosis.

C) The result of the Mantoux skin test in mm of induration, the date given and the date read shall be recorded in the patient's medical file.

D) Patients who have a positive reaction of 5 mm or more to the skin test or who have signs and symptoms compatible with tuberculosis disease shall be medically evaluated for tuberculosis or shall be referred for such evaluation. Admission of patients with symptoms of active tuberculosis may be delayed until there is adequate documentation that the person is not infectious.

E) Organizations shall follow the CDC Guidelines regarding appropriate testing after the initial test (i.e., in determining appropriate retesting, the need for allergy testing, testing required upon exposure and additional considerations for interpreting test results). Patients with negative reactions to the initial tuberculin test shall be retested using the Mantoux method (5TU PPD) at least annually or after any known exposure to infectious tuberculosis.

F) Procedures shall be established for providing prompt and appropriate curative and preventive therapy directly by the organization or by referral. Medical care provided shall be consistent with the CDC's standards specified by the Centers for Disease Control and Prevention. Treatment of Tuberculosis and Tuberculosis Infection in Adults and Children. American Thoracic Society, Medical Society of the American Lung Association and H.S. Department of Health and Human Services. Am. J. Respir. Crit. Care Med. vol. 141, pp. 1359-1374, 1994.

4) Facility Environment Transmission Prevention

A) An organization that which provides respiratory isolation at a facility shall assure that it has consulted engineers or other professionals with expertise in ventilation engineering to ensure that its facility ventilation system meet applicable Federal, State and local standards.

B) Persons with suspected or known infectious tuberculosis shall not be allowed to enter living or work areas of a treatment facility. The process for handling persons to enter to and while screening for infectious tuberculosis shall be done as to avoid environmental exposure to other patients and staff.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Mantoux method (5TU, PPD) when hired at hire, annually and as indicated in the CDC Guidelines (or authentic documentation of a skin test within the past three months, or of completion of previous medical treatment of the disease, or of preventive therapy). The test shall be read within 48 to 72 hours by personnel trained in accordance with guidance from the local tuberculosis agency.

B) The organization shall establish procedures requiring medical evaluation for personnel with positive skin tests or with signs and symptoms of active tuberculosis disease; requiring preventive therapy for personnel with tuberculosis infection, unless medically contraindicated; and requiring leave and/or restriction from the patient population as necessary in cases of active infectious tuberculosis.

C) Staff who have an initial negative skin test result but who have not had a documented negative skin test result during the 12 preceding months shall be retested using the Mantoux method within one to three weeks after the initial test. If the second test is positive, the person should be considered previously infected.

D) Staff with negative tests shall be retested at least every 12 months and upon a known or suspected exposure to tuberculosis.

E) The organization shall document and have available for review by the Department the results of all staff tuberculin test results.

3) Patient Skin Testing and Management

A) The medical director Medical Director of any organization providing treatment services shall develop a tuberculosis skin testing policy and procedure based on the tuberculosis risk assessment and tuberculosis infection control plan required in subsection (b)(1) of this Section.

B) Patient Testing

i) Each organization providing inpatient services (except for residential extended care) and/or providing opioid maintenance therapy shall either directly or through arrangements with other public, nonprofit or private entities, provide each patient with medical tuberculosis screening services including at a minimum a PPD skin test (5TU, PPD), placed within seven calendar days after admission and read within 48 to 72 hours after placement by personnel trained in accordance with guidance from the local tuberculosis agency. If a patient is known to be immunosuppressed, a chest x-ray, allergy battery, sputum smear and/or sputum culture/sensitivity study for tuberculosis HIV/AIDS may be used instead of a PPD skin test.

ii) Patients with prior positive skin tests or diagnoses

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

Section 2060.417 Assessment for Patient Placement

An assessment shall be conducted prior to admission to any level of care. This assessment shall be an individual face-to-face service and shall include collection of demographic data as referenced in Section 2060.325(1) of this Part and:

- a) For admission to Level 0.5, Early Intervention:
 - 1) review of any specific conditions of court supervision or probation including any prior substance abuse screenings or evaluations conducted prior to admission (i.e., DUI); and
 - 2) sufficient assessment to screen for, or rule out, substance related disorders.
- b) For admission to Levels I-IV care:
 - 1) an evaluation of the severity of the six dimensions established in the "ASAM Patient Placement Criteria";
 - 2) a recommendation for placement in Levels I-IV care as established in the "ASAM Patient Placement Criteria";
 - 3) a diagnostic impression of substance abuse and/or dependence as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Washington, D.C.: American Psychiatric Association (DSM-IV) that which shall be confirmed as a diagnosis by a physician.
- c) Physician confirmation of diagnosis and initial patient placement:
 - 1) the medical director shall define protocols and authorize procedures for confirmation of diagnosis or admission without diagnosis as specified in Section 2060.403(a) of this Part and initial patient placement in Levels I-IV care.
 - 2) such confirmation of diagnosis may be made by telephone or facsimile transmission if so authorized by procedure.
 - 3) such confirmation shall occur no later than within 24 hours after admission for Level IV care, no later than within 72 hours after admission for Level III care, and no later than 7 working days after admission for Level I and II care.
 - 4) confirmation of diagnosis and admission is not necessary for Level 0.5 Early Intervention.
- d) Prior to admission, or in the case of an intoxicated patient, as soon as stabilization occurs, basic information about treatment services shall also be provided and shall include the following:
 - 1) the procedures and treatment services the patient will receive;
 - 2) if possible, an introduction to the professional staff members who serve as the primary contact with the facility for the client;
 - 3) the hours during which services are available;
 - 4) the risks, side effects, and benefits of all medications prescribed by the organization's medical director or physicians working under his or her supervision or direction and experimental treatment procedures to be used--especially--these

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

that are experimental:

- 5) the cost, itemized when possible, of services to be rendered;
 - 6) any limitations placed on duration of services; and
 - 7) the rules and regulations of the facility applicable to the patient's conduct.
- e) A written, dated, and signed informed consent form shall be obtained from the patient, or the patient's legal guardian, and from family members who also participate, for use or performance of the following activities:
- 1) experimental medications;
 - 2) hazardous on experimental assessment procedures;
 - 3) recording on audiovisual equipment;
 - 4) participation of the patient in research projects; and
 - 5) testing for Human Immunodeficiency Virus (HIV).

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.423 Continued Stay Review Subsequent Patient Placement

- a) Ongoing assessment of the patient's progress in treatment shall occur in order to determine continued stay in the level of care in which the patient was placed or the need to move to another level of care or to discharge. The Such assessment shall also be accomplished using the ASAM "continued stay" of "discharge" criteria assessment with removal from the six dimensions established in the ASAM Patient Placement Criteria. As the patient moves through treatment, progress in these six dimensions shall be continually assessed continuously and recorded in progress notes. At a minimum, a continued stay review shall include a review of the ASAM continued stay or discharge criteria for current treatment plan, and all subsequent progress notes. Continued stay reviews shall be measured through hours or days. The type of measurement (hours or days) must be specified in the initial and each subsequent treatment plan and must remain unchanged until the next continued stay review. reviewed continued stay review shall occur follows:
 - 1) upon movement to any other level of care based on any change in the level of patient functioning such as completion of treatment plan, goals and objectives or identification of new or changing underlying or diagnosed patient needs:
 - every 60 99 calendar days or after every 10 hours of treatment for patients receiving Level I or residential extended care, every 30 44 calendar days or after every 27 hours of treatment for patients receiving Level II care, every 14 calendar days for patients receiving Level III care, and every 24 hours for patients receiving Level IV care; or
 - 3) prior to planned discharge;
 - 4) every 30 days for patients in opioid maintenance therapy during

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

the first 90 days of treatment and every 90 days thereafter for patients who demonstrate 90 days of stable participation and for whom no change has occurred in the ASAM Biomedical Conditions and Complications dimension.

b) Documentation of the continued stay review subsequent--patient placement shall:

- 1) be by progress note in the patient record;
- 2) include the participation of the patient;
- 3) be initiated and dated by the patient;
- 4) be initiated and dated by the professional staff member conducting the review; and
- 5) be authorized as evidenced by a progress note in the patient record written and dated and initiated by the medical director or a physician working under his or her supervision if there is a change in the ASAM Biomedical Conditions and Complications dimension.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2060.425 Progress Notes and Documentation of Service Delivery

- a) Progress notes shall reflect patient progress and shall be consistent with the clinical assessment, level of care and expectation of progress. Progress notes can include a summary of services delivered prior to each continued stay review. Progress notes shall be summarized a minimum of every 14 calendar days for patients in Level II care, daily for patients in Level III care, and upon each continued stay review for patients in Level I and Residential Extended Care. Progress notes shall be entered in the patient record and include the following:

- 1) documentation--of--any--service--(including--specific--date--time--and--duration--of--each--service)--rendered--to--the--patient;--except--for--HIV--counseling--and--testing;--and--its--relevance--to--a--specific--goal--or--objective--in--the--patient--treatment--plan;
- 2) chronological documentation of the patient's progress in treatment;
- 3) documentation of any change in the patient's behavior; and
- 3a) descriptions of the patient's response to treatments, the outcome of treatment, and the response of significant others to events in the course of treatment.

- b) Documentation of service delivery in the patient record ~~progress notes~~ shall specify the name and credentials of the individual who provided the service and be signed or initialed and dated in ink by the individual ~~providing the service to the patient--end--the--individual~~ making the entry or in accordance with the provisions for electronic signature specified in Section 2060.425(C)-(e) of this Part.

- c) Any entry that includes a subjective interpretation of the patient's

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- d) progress shall include a description of the actual behavior observed. Each service delivered shall be documented in the patient record and include the specific type of service delivered, location of service delivery, date, time and duration of each service rendered to the patient (with the exception of HIV counseling and testing). Clinical notes, clinical checklists and clinical rating scales may also be included with the documentation.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2060.427 Continuing Recovery Planning and Discharge

- a) Organizations shall develop a continuing recovery plan for patients who are no longer actively receiving treatment in, or no longer require, an ASAM level of care. ~~Organizations shall develop discharge and exclusionary criteria consistent with customary clinical standards accepted within the community.~~

- b) The continuing recovery plan shall contain the following information as appropriate for individual patients ~~Discharge planning shall begin at admission and shall:~~

- 1) a relapse prevention plan for patients who have obtained abstinence that also identifies actions to be taken if relapse should occur ~~be designed to help maintain support and enhance patient progress in treatment;~~
- 2) actions planned by the organization to support continuing recovery or reinitiation of active treatment services ~~result in a continuing care plan for the individual--that--identifies recommended activities, support groups and/or referrals that can support and enhance such patient progress;~~
- 3) identify specific and measurable patient involvement in--such activities in the event that accountability by the patient is required for any case management or monitoring organization (i.e., circuit courts, offices of probation, Office of the Illinois Secretary of State, parole officers, employers, etc.); and
- 4) community recovery support services that will maintain, support and enhance progress made in treatment ~~identify all necessary steps to reinitiate treatment services.~~

The continuing recovery plan shall be completed prior to the patient discharge from all ASAM levels of care within the organization for any patient no longer meeting the criteria for continued active treatment.

- c) Organizations shall develop discharge and exclusionary criteria consistent with customary clinical standards accepted within the community. After the patient is discharged from all treatment, a discharge summary shall be entered in the patient record within 15 days. This summary shall include:

- 1) the reason for discharge and the progress of the patient relative

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

to each goal and objective in the treatment plan;

- 2) a prognostic statement of the patient's condition at discharge,
 - 3) including any continued use of prescribed medications; and
 - 4) the patient's continuing recovery plan.
- ~~Identification of all referrals and/or activities recommended for the patient after discharge that will help maintain support and enhance progress made in treatment.~~

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART E: REQUIREMENTS - INTERVENTION LICENSES

Section 2060.501 General Requirements

In addition to the provisions specified in this Subpart, all DUI evaluation, DUI risk education and designated program services shall meet all applicable provisions specified in Subparts A, B, and C of this Part. Recovery Homes shall meet all applicable provisions specified in Subparts A and B, as well as all provisions specified in Section 2060.505 of this Part.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.503 DUI Evaluation

- a) The purpose of a DUI evaluation is to conduct an initial screening to obtain significant and relevant information from a DUI offender about the nature and extent of the use of alcohol or other drugs in order to:
 - 1) identify the offender's risk to public safety for the circuit court of venue or the Office of the Secretary of State; and
 - 2) recommend an initial intervention to the DUI offender and to the circuit court of venue or the Office of the Secretary of State.
- b) DUI evaluation services shall be provided to any offender under the same terms and conditions regardless of ability to pay.
 - 1) If an offender provides proof of indigence, in accordance with poverty guidelines established by the U.S. Department of Health and Human Services and contained in the Department's annual Drunk and Drugged Driving Prevention Fund (DDDPF) billing manual, the organization providing the evaluation may bill for reimbursement for the DUI evaluation from the DDPF. All such reimbursement shall be via a rate established by the Department and in accordance with the Department's most current fiscal year DDPF billing manual that offender is then eligible for the indigence fee.
 - 2) Additionally, all reimbursement from the DDPF is subject to availability of funds. Organizations shall have an alternative

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 3) fee assessment and collection procedure for use should DDPF funding not be available. However, if the reimbursement from the DDPF or any additional fee assessed to the offender, as specified in subsection (b)(3) of this Section, has not been received, ~~the reasonable efforts shall be made to ensure that the indigence fee from the offender prior to the completion of the evaluation service. However, if the fee is not entered from the indigent offender by the completion of services, the evaluation shall still be released to the appropriate circuit court of venue or the Office of the Secretary of State in accordance with the provisions specified in this Section.~~
- 4) The organization may also assess a fee for the evaluation to an indigent DUI offender when the organization's standard fee charged for an evaluation to a non-indigent DUI offender exceeds the rate of reimbursement provided by the Department. In such cases, the amount assessed to the offender shall not exceed the difference between the organization's standard fee and the Department's rate. ~~The unassessed cost of the service may be submitted as a claim to the Department for reimbursement from the Brunk and Drugged Driving Prevention Fund (DDDPF). Such claim shall be submitted in accordance with the procedures specified in the Department's most current fiscal year DDPF billing manual.~~
- 5) Any organization choosing not to submit reimbursement such claims shall still provide services to indigent offenders in accordance with this Part and ~~can only assess the indigence fee for the service.~~
- 6) All evaluations shall consist of a face-to-face individual interview. The evaluation shall be conducted at the facility unless otherwise specified in this Part by court rule.
- 7) Each DUI offender shall be given a copy of the Department's "Informed Consent" form and a copy of the Department's brochure that which explains the DUI evaluation process.
 - 1) This brochure shall be read by or to the offender prior to the provision of the evaluation.
 - 2) The "Informed Consent" specifies that any information provided by the DUI offender will be released to the circuit court of venue, the Office of the Secretary of State and/or the Department and explains that the consent of the offender is not required for this disclosure.
 - 3) The "Informed Consent" also requires the offender to specify where he or she underwent any previous evaluations as a result of the most current DUI offense and to provide a copy of those such evaluations, if completed, to the current DUI evaluator.
 - 4) Each DUI offender shall sign the "Informed Consent" form indicating his or her understanding of the DUI evaluation process and disclosure requirements of initial the "Informed Consent" form indicating refusal to proceed with the evaluation. A copy of this form shall be placed in the DUI offender record.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 5) If the offender refuses to sign, or refuses to present copies of other evaluations completed, written notice of that such refusal shall be sent to the circuit court of venue or the Office of the Secretary of State and the evaluation will be terminated.

e) Written policies and procedures shall be established that protect the non-disclosure privilege of DUI offenders that which, at a minimum, shall include provisions to ensure that no evaluation information shall be released to any party other than the DUI offender, the Illinois circuit court of venue or its court officials as specified by local court rules, the Office of the Secretary of State or the Department without the written consent of the DUI offender. Any release of information relative to alcohol and drug treatment received by the DUI offender requires the written consent of the offender.

1) The evaluation shall be structured and scheduled in order to ensure that, prior to its completion, the following occur:

- 1) collection of a comprehensive chronological history of substance use from first use to present, including alcohol, prescription and non-prescription drugs, and exposure to intoxicating compounds and illegal drugs, that specifies the frequency and patterns of use, type and amount of substance used and any change in the use or abuse pattern and the reason for the change;

- 2) a determination of the extent to which the substance use has caused marital, family, legal, social, emotional, vocational, physical and/or economic impairment;

- 3) an analysis of the offender's verbal description of:

- A) alcohol and drug related legal history, driving history (all offenses), and any related substance use or chemical test results (blood alcohol concentration-BAC) and all substances used that resulted in all arrests, including the most recent DUI arrest;

- B) past history of substance abuse evaluations, alcohol or drug treatment and/or self-help group involvement;

- C) family history of substance abuse.

- 4) an analysis of:

- A) objective test results from either the Driver Risk Inventory (DRI) or Mortimer/Pillens test;

- B) the offender's current driving record as documented on the "Alcohol/Drug Related Driving Offenses" summary form from the Office of the Secretary of State or a copy of the actual "Court Purposes" driving abstract supplied to the circuit court of venue by the Office of the Secretary of State; and

- C) the "Law Enforcement Sworn Report" (issued to the offender at the time of the arrest for DUI) that which identifies the chemical test result BAC or the refusal to submit to chemical testing relative to the most current DUI arrest.

- 9) All information obtained during the evaluation shall be analyzed, and the offender's risk to public safety shall be determined. However, that such determination shall be considered an initial finding that

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

may be subject to change when more comprehensive and definitive information is obtained from the offender during participation in any recommended intervention. The determination of risk shall be minimal, moderate, significant, or high as follows:

- 1) Minimal Risk

The offender has Such-offenders-shall-have no prior conviction or court ordered supervisions for DUI, and no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and a BAC of less than .15 as a result of the most current arrest for DUI; and no other symptoms of substance abuse or dependence.

- 2) Moderate Risk

The offender has Such-offenders-shall-have no prior conviction or court ordered supervision for DUI, and no prior statutory summary suspension, and no prior reckless driving conviction reduced from DUI; and a BAC of .15 to .19 or a refusal of chemical testing as a result of the most current arrest for DUI; and no other symptoms of substance abuse or dependence.

- 3) Significant Risk

The offender has Such-offenders-shall-have one prior conviction or court ordered supervision for DUI, or one prior statutory summary suspension, or one prior reckless driving conviction reduced from DUI; and/or a BAC of .20 or higher as a result of the most current arrest for DUI; and/or other symptoms of substance abuse.

- 4) High Risk

The offender has Such-offenders-shall-have symptoms of substance dependence, and/or, within a 10 ten year period from the date of the most current (third) arrest, any combination of two prior convictions or court ordered supervisions for DUI, or prior statutory summary suspensions, or prior reckless driving convictions reduced from DUI.

h) After the determination of risk, a corresponding intervention shall be recommended. However, that such recommendation shall be viewed as the minimum necessary and, as such, not the determinate intervention. Any subsequent information relevant to the offender's substance use or arrest history discovered during the offender's participation in risk education, early intervention and/or treatment shall be considered pertinent in formulating a recommendation for further services necessary to reduce the offender's risk to public safety. Initially, the following interventions for each designation of risk shall be selected and recommended:

- 1) Minimal Risk

Successful completion of a minimum of 10 ten hours of DUI risk education as defined in Section 2060-505 of this Part.

- 2) Moderate Risk

Successful completion of a minimum of 10 ten hours of DUI risk education as defined in this Part; a minimum of 12 twelve hours

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

of early intervention as defined in Section 2060.401(a) provided over a minimum of four weeks with no more than three hours per day in any seven consecutive days; subsequent completion of any and all necessary treatment; and, after discharge, active ongoing participation in all activities specified in the continuing care plan, if so recommended following completion of the early intervention. This early intervention and any subsequent treatment shall be as specified in the ASAM Patient Placement Criteria and shall be conducted by an organization meeting the requirements specified in subsection (j) of this Section and Section 2060.401 of this Part.

3) Significant Risk

Successful completion of a minimum of 10 ten hours of DUI risk education as defined in this Part; a minimum of 20 hours of substance abuse treatment; and, upon completion of any and all necessary treatment, and, after discharge, active on-going participation in all activities specified in the continuing care plan. This treatment shall be as specified in the ASAM Patient Placement Criteria and shall be conducted by an organization meeting the requirements specified in subsection (j) of this Section and Section 2060.401 of this Part.

4) High Risk

Successful completion of a minimum of 75 hours of substance abuse treatment; and, upon completion of any and all necessary treatment, and, after discharge, active on-going participation in all activities specified in the continuing care plan. This treatment shall be as specified in the ASAM Patient Placement Criteria and shall be conducted by an organization meeting the requirements specified in subsection (j) of this Section and Section 2060.401 of this Part.

i) A summary of the DUI evaluation, the assigned risk and the corresponding intervention shall be documented on the Department's "Alcohol and Drug Evaluation Uniform Report", which is produced by the DUI Service Reporting System (DSRS). All sections of this form shall be complete and it shall be signed by the offender at the facility.

- j) Upon completion of the evaluation, all offenders:
- 1) who need substance abuse treatment shall be referred for appropriate services to organizations licensed pursuant to the Act or to individuals who are otherwise licensed in Illinois or any other state to provide such services;
 - 2) who need DUI risk education as defined in this Part shall be referred to such services licensed by the Department.
 - 3) shall verify that they have been shown, prior to referral, a listing of organizations as specified in subsection (j)(1) and (2) of this Section, unless an alternative process is established by court rule. The such verification shall be on the Department's "Referral List Verification Form".
- k) The evaluation is complete when all of the above referenced

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

information is obtained and the "Alcohol and Drug Evaluation Uniform Report" is signed by the offender.

- 1) The "Alcohol and Drug Evaluation Uniform Report" shall be provided directly to the circuit court of venue, unless another court repository is specified by court rule. A copy shall also be given to the DUI offender upon completion of payment or as otherwise specified in subsection (b)(2) of this Section.
- 2) If the offender will be requesting a judicial driving permit from the circuit court of venue, an "Alcohol and Drug Evaluation Report Summary" shall also be completed. This form is supplied by the Office of the Secretary of State and required by Section 6-201 of the Illinois Driver Licensing law 1625 ILCS 5/6-201) and should be sent directly to the circuit court of venue, unless another court repository is specified by court rule.
- 1) Evaluations shall be scheduled and completed so that the "Alcohol and Drug Evaluation Uniform Report" can be sent directly to the circuit court of venue at least five calendar days prior to the offender's court date, unless otherwise specified by court rule.
- m) The evaluator shall be available to provide testimony relative to the DUI evaluation when summoned by the circuit court of venue, the Office of the Secretary of State or the DUI offender.
- n) The circuit court of venue or the Office of the Secretary of State, whichever is applicable, shall be notified, within five calendar days, when a DUI offender does not complete an evaluation or refuses to sign the evaluation. The Such notification shall also be made, within five calendar days, when an offender does not return to sign the evaluation after 30 calendar days from the last face-to-face contact. The Such information needed to complete the evaluation shall be communicated using the Department's "Notice of Incomplete/Refused DUI Evaluation" form.
- o) In addition to meeting the provisions specified in Section 2060.325 of this Part, the following documents shall also be contained in the DUI offender's record:
 - 1) a copy of the offender's "Alcohol and Drug Evaluation Uniform Report" and narrative information to support the conclusions summarized in this report and a copy of the "Alcohol and Drug Evaluation Report Summary" if the offender requested judicial driving privileges;
 - 2) a copy of the Driver Risk Inventory (DRI) report or Mortimer Filetest test;
 - 3) documentation to support any subsequent change in risk assignment or intervention;
 - 4) a copy of the "Informed Consent Release" form;
 - 5) documentation of the offender's driving record and chemical tests results;
 - 6) a copy of "Notification of Incomplete or Refused Evaluation" form, if applicable; and
 - 7) a copy of the "Referral List Verification" form.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2060.505 DUI Risk Education

a) The purpose of DUI risk education is to provide orientation to offenders regarding the impact of alcohol and other drug use on individual behavior and driving skills and to allow offenders to further explore the personal ramifications of their own substance use and abuse.

b) DUI risk education services shall be provided to any offender under the same terms and conditions regardless of ability to pay.

1) If an offender provides proof of indigence, in accordance with poverty guidelines established by the U.S. Department of Health and Human Services and published in the Department's annual Drug and Drugged Driving Prevention Fund (DDDPF) billing manual, the organization providing the risk education may bill for reimbursement for the DUI evaluation from the DDDPF. All such reimbursement shall be via a rate established by the Department and in accordance with the Department's most current fiscal year DDDPF billing manual that offender is then eligible for the indigency fee.

2) Additionally, all reimbursement from the DDDPF is subject to availability of funds. Organizations shall have an alternative fee assessment and collection procedure for use should DDDPF funding not be available. However, if the reimbursement from the DDDPF or any additional fee assessed to the offender, as specified in subsection (b)(3) of this Section, has not been received within reasonable efforts, shall be made to collect the indigency fee from the offender prior to completion of the risk education service. However, if the fee is not collected from the indigent offender by the completion of services, documentation of successful completion of risk education shall still be released to the appropriate circuit court of venue or the Office of the Secretary of State in accordance with the provisions specified in this Section.

3) The organization may also assess a fee for the risk education to an indigent DUI offender when the organization's standard fee charged for risk education to a non-indigent DUI offender exceeds the rate of reimbursement provided by the Department. In such cases, the amount assessed to the offender shall not exceed the difference between the organization's standard fee and the Department's rate. The unassessed cost of the service may be submitted as a claim to the Department for reimbursement from the Drug and Drugged Driving Prevention Fund (DDDPF). Such claims shall be submitted in accordance with the procedures specified in the Department's most current fiscal year DDDPF billing manual.

4) Any organization choosing not to submit reimbursement shall

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

shall still provide services to indigent offenders in accordance with this Part and can only assess the indigency fee for the service.

c) The risk education curriculum shall include:

- 1) information on alcohol as a drug;
 - 2) physiological and pharmacological effects of alcohol and other drugs, including their residual impairment on normal levels of driving performance;
 - 3) other drugs, legal and illegal, and their effects on driving when used separately and/or in combination with alcohol;
 - 4) substance abuse/dependence and the effect on individuals and families;
 - 5) blood alcohol concentration (BAC) level and its effect on driving performance;
 - 6) information about Illinois driving under the influence laws and associated penalties;
 - 7) factors that influence the formation of patterns of alcohol and drug abuse; and
 - 8) information about referrals for services that can address any identified problem that may increase the risk for future alcohol/drug related difficulty.
- d) Risk education courses shall include a minimum of 10 ten hours of classroom instruction, divided into at least four sessions held on different days. No session shall exceed three hours in length.
- e) A pre-test and post-test shall be designed and administered to offenders to assess the effectiveness of the service and any increase in knowledge in the curriculum areas. The pre-test and post-test shall be submitted for review by the Department at the time of application for licensure or license renewal.
- f) In order to successfully complete risk education, the offender shall attend each session in its entirety and in proper sequence and achieve a score on the post-test of at least 75%.
- g) Upon successful completion, a DUI Risk Education Certificate of Completion shall be issued to each offender. The Such certificate is produced by the DUI Service Reporting System (DSRS). All sections of this form shall be complete and it shall be signed by the DUI Risk Education Instructor.
- h) Audio-visual presentations shall not comprise more than 25% of the total class time.
- i) No more than 24 participants shall be permitted in any one class session.
- j) Written rules shall be developed and provided to each DUI offender upon enrollment, which address the following:
- 1) criteria for admission;
 - 2) criteria for disqualification;
 - 3) responsibilities of the DUI offender;
 - 4) sobriety and drug-free requirements during class; and
 - 5) course outline, content and class schedule.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

- k) Prior to enrollment in risk education classes, the DUI offender shall provide a copy of his or her completed "Alcohol and Drug Evaluation Uniform Report" indicating that risk education has been recommended.
- l) The organization that provided the evaluation or, if applicable, treatment service shall be notified in the event that information is discovered or disclosed while the offender is in risk education that indicates the offender was not correctly evaluated and is in need of additional services. The sent notification shall also be made to the circuit court of venue or the Office of the Secretary of State, if applicable.
- m) The circuit court of venue or the Office of the Secretary of State, whichever is applicable, shall be notified, within five calendar days, when a DUI offender is involuntarily terminated from risk education. This information shall be communicated by using the Department's "Notice of Involuntary Termination from DUI Risk Education" form.
- n) Each risk education instructor shall be available to provide testimony relative to the offender's participation in risk education when summoned by the circuit court of venue, the Office of the Secretary of State or the DUI offender.
- o) In addition to meeting the provisions specified in Section 2060.325 of this Part, the following documents shall also be contained in the DUI offender's record:
- 1) a copy of the "Alcohol and Drug Evaluation Uniform Report";
 - 2) the pre- and post-test specifying percentage scores;
 - 3) a copy of the "DUI Risk Education Certificate of Completion";
 - 4) a copy of "Notice of Involuntary Termination from DUI Risk Education" form, if applicable; and
 - 5) a copy of any notification regarding a change in the risk level assignment and intervention.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2060.509 Recovery Homes

Recovery homes are alcohol and drug free housing components whose rules, peer-led groups, staff activities and/or other structured operations are directed toward maintenance of sobriety for persons who exhibit treatment resistance, relapse potential and/or lack of suitable recovery living environments in early recovery from substance abuse or who recently have completed substance abuse treatment services or who may be receiving such treatment services at another licensed facility. In order to be called a Recovery Home recovery home, the home shall:

- a) provide a structured alcohol and drug free environment for congregate living that shall offer regularly scheduled peer-led or community gatherings (self-help groups, etc.) that are held a minimum of five days per week and provide recovery education groups weekly;
- b) have written linkage agreements with substance abuse providers in

accordance with the provisions specified in Section 2060.379 of this Part:

- c) establish a referral network to be utilized by residents for any necessary medical, mental health, substance abuse, vocational or employment resources;

- d) establish a budget that which specifies monthly operating expenses and demonstrates sufficient income to meet these expenses plus emergency reserve by providing documentation of access to a minimum sum equivalent to the total of two months of operating expenses;

- e) comply with all applicable zoning and local building ordinances and the provisions specified in Chapter 20 (lodging or Rooming Houses) of the National Fire Protection Association's (NFPA) Life Safety Code of 2000 (no later amendments or editions included) 1994 for any building housing 16 or fewer residents and with the provisions specified in Chapter 17 (Existing Hotels and Dormitories) of the NFPA Life Safety Code of 2000 (no later amendments or editions included) 1994 for any building housing 17 or more residents;

- f) maintain fire, hazard, liability and other insurance coverages appropriate to the administration of a recovery home;

- g) employ at least one full-time Recovery Home Operator who is responsible for the daily operations at the Recovery Home recovery home (i.e., fiscal, personnel, rule compliance, etc.) who shall:

- A) hold clinical certification from TAODAPCA or receive that such certification within two years after the date of employment; or
- B) hold certification as a National Certified Recovery Specialist (NCRS) as specified by the Association of Halfway House Alcohol Programs (AAHP), RR 2 Box 415, Keokuk, IA 52446 have a minimum of 300 hours of education in the field of substance abuse; 50% of which shall have been under clinical supervision of a professional staff as defined in Section 2060.309 of this Part; or
- C) have a minimum of 2000 hours of work experience or 4000 hours of volunteer experience in the field of substance abuse of which 1500 hours shall have been in direct Recovery Support Systems Services (i.e., Residential Extended Care Facility or Recovery Home) clinical services; and

- 3) have two years of continuous sobriety; and

- 24) provide three letters of recommendation from substance abuse professional staff as defined in Section 2060.309 of this Part; and

- 35) provide a signed and dated acceptance of the Code of Ethics as established by the Illinois Association of Residential Extended Care Programs (IARECP), Box 20380 494 South Route 54, Chicago Address, Illinois 60626, email address: IARECP@aol.com 60648; and

- h) have on-site at least one Recovery Home Manager who oversees all

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

Recovery Home recovery-home activities under the direction of the Recovery Home Operator. Recovery Home Managers shall:

- 1) hold certification as a National Certified Recovery Specialist (NCRS) as specified by the Association of Halfway House Alcoholism Programs of North America, Inc. 7 (AHAP), RR2 Box 415 Kerkonkson, NY 12446 686-Stewart-Avenue--St--Fair--Minnesota 66186, or receive such certification within two years after the date of after employment; or
- 2) hold certification from IAODAPCA or receive that certification within two years after the date of employment; or
- 3) have a minimum of 1000 hours of work experience or 2000 hours of volunteer experience in the field of substance abuse of which 750 hours shall have been in direct Recovery Support Systems Services (i.e., Residential Extended Care Facility or Recovery Home) one year- of-continuous-sobriety--and--60--hours-of-substance-abuse education--and/or--third-party--signed-statements--certificates--of attendance--and/or--third-party--signed-statements--and provide a signed and dated acceptance of the Code of Ethics as established by the Illinois Association of Extended Care (IAEC), Box 269180, Chicago, Illinois, 60626, e-mail address: IAECRECOVERY@aol.com. The Recovery Home Operator may also function as the Recovery Home Manager as long as the requirements for both positions are met.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Numbers: Proposed Action:
114.351 Amendment
114.400
- 4) Statutory Authority: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].
- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments revise payment level provisions and provisions for persons who may be included in the assistance unit for GA Family and Children Assistance cases.
- 6) Will this proposed rulemaking replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS
TITLE 89: SOCIAL SERVICES
CHAPTER 14: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 114
GENERAL ASSISTANCE

SUBPART A: GENERAL PROVISIONS

Section
114.1
114.2
114.3
114.5

Description of the Assistance Program
Determination of Not Employable
Advocacy Program for Persons Receiving State Transitional Assistance
Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
114.9
114.10
114.20
114.30
114.40
114.50
114.52
114.60
114.61
114.62
114.63
114.64
114.70
114.80
114.85
114.90
114.100
114.101

Client Cooperation
Citizenship
Residence
Age
Relationship
Living Arrangement
Social Security Numbers
Work Registration Requirements (Outside City of Chicago only)
Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)
Job Service Registration (Outside City of Chicago only)
Failure to Maintain Current Job Service Registration (Outside City of Chicago only)
Responsibility to Seek Employment (Outside City of Chicago only)
Initial Employment Expenses (Outside City of Chicago only)
Downstate General Assistance Work and Training Programs
Downstate General Assistance - Food Stamps Employment and Training Pilot Project
Project Chance Participation/Cooperation Requirements (Renumbered)
General Assistance Jobs Program (Repealed)
Persons Ineligible for TANF Due to Time Limits

SUBPART C: PROJECT ADVANCE

Section
114.108
114.109
114.110

Project Advance (Repealed)
Project Advance Participation Requirements of Adjudicated Fathers (Repealed)
Project Advance Cooperation Requirements of Adjudicated Fathers (Repealed)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

114.111 Project Advance Sanctions (Repealed)
114.113 Project Advance Good Cause for Failure to Comply (Repealed)
114.115 Individuals Exempt From Project Advance (Repealed)
114.117 Project Advance Supportive Services (Repealed)

SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

Section
114.120 Employment and Training Requirements
114.121 Persons Required to Participate in Project Chance (Repealed)
114.122 Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
114.123 Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
114.124 Employment and Training Participation/Cooperation Requirements (Repealed)
114.125 Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
114.126 Employment and Training Program Components (Repealed)
114.127 Employment and Training Sanctions (Repealed)
114.128 Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
114.129 Employment and Training Supportive Services (Repealed)
114.130 Conciliation and Fair Hearings (Repealed)
114.135 Employment Child Care (Repealed)
114.140

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section
114.200 Unearned Income
114.201 Budgeting Unearned Income
114.202 Budgeting Unearned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.203 Initial Receipt of Unearned Income
114.204 Termination of Unearned Income
114.205 Exempt Unearned Income
114.210 Education Benefits
114.221 Unearned Income In-Kind
114.222 Earmarked Income
114.223 Lump-Sum Payments
114.224 Protected Income
114.225 Earned Income
114.226 Budgeting Earned Income
114.227 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.228 Initial Employment

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

114.229 Termination of Employment
114.230 Exempt Earned Income
114.235 Recognized Employment Expenses
114.240 Income From Work/Study/Training Program (Repealed)
114.241 Earned Income From Self-Employment
114.242 Earned Income From Roomer and Boarder
114.243 Earned Income From Rental Property
114.244 Earned Income In-Kind
114.245 Payments from the Illinois Department of Children and Family Services
114.246 Budgeting Earned Income For Contractual Employees
114.247 Budgeting Earned Income For Non-contractual School Employees
114.250 Assets
114.251 Exempt Assets
114.252 Asset Disregards
114.260 Deferral of Consideration of Assets (Repealed)
114.270 Property Transfers (Repealed)
114.280 Supplemental Payments

SUBPART F: PAYMENT AMOUNTS

Section
114.350 Payment Levels
114.351 Payment Levels in Group I Counties
114.352 Payment Levels in Group II Counties
114.353 Payment Levels in Group III Counties

SUBPART G: OTHER PROVISIONS

Section
114.400 Persons Who May Be Included In the Assistance Unit
114.401 Eligibility of Strikers
114.402 Special Needs Authorizations (Repealed)
114.403 Institutional Status
114.404 Retrospective Budgeting
114.405 Budgeting Schedule
114.406 Limitation on Amount of General Assistance to Recipients from Other States (Repealed)
114.408 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
114.420 Redetermination of Eligibility
114.430 Extension of Medical Assistance Due to Increased Income from Employment
114.440 Attorney's Fees for VA Appellants
114.442 Attorney's Fees for SSI Applicants

SUBPART H: CHILD CARE

Section

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

114.450 Child Care (Repealed)
 114.452 Child Care Eligibility (Repealed)
 114.454 Qualified Provider (Repealed)
 114.456 Notification of Available Services (Repealed)
 114.458 Participant Rights and Responsibilities (Repealed)
 114.462 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
 114.464 Rates of Payment for Child Care (Repealed)
 114.466 Method of Providing Child Care (Repealed)

SUBPART I: TRANSITIONAL CHILD CARE

Section
 114.500 Transitional Child Care Eligibility (Repealed)
 114.504 Duration of Eligibility for Transitional Child Care (Repealed)
 114.506 Loss of Eligibility for Transitional Child Care (Repealed)
 114.508 Qualified Provider (Repealed)
 114.510 Notification of Available Services (Repealed)
 114.512 Participant Rights and Responsibilities (Repealed)
 114.514 Child Care Overpayments and Recoveries (Repealed)
 114.516 Fees for Service for Transitional Child Care (Repealed)
 114.518 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, P. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, P. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, P. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, P. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, P. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, P. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, P. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, P. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, P. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, P. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, P. 321, effective September 21, 1979; amended at 3 Ill. Reg. 40, P. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, P. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, P. 96, effective November 13, 1979; amended at 4 Ill. Reg. 48, P. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 48, P. 259, effective February 25, 1980; amended at 4 Ill. Reg. 10, P. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, P. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, P. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, P. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, P. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, P. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, P. 134, effective October 27, 1980; amended at

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 16, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed; new rules adopted and codified at 7 Ill. Reg. 907, effective January 7, 1983; amended 'by adding Sections being codified with no substantive change' at 7 Ill. Reg. 5393; amended at 7 Ill. Reg. 9909, effective August 5, 1983; amended 'by adding Section being codified with no substantive change' at 7 Ill. Reg. 14747; amended 'by adding Section being codified with no substantive change' at 7 Ill. Reg. 16107; amended at 7 Ill. Reg. 16408, effective November 30, 1983; amended at 7 Ill. Reg. 16652, effective December 1, 1983; amended at 8 Ill. Reg. 243, effective December 27, 1983; amended at 8 Ill. Reg. 5233, effective April 9, 1984; amended at 8 Ill. Reg. 6764, effective April 27, 1984; amended at 8 Ill. Reg. 11435, effective June 27, 1984; amended at 8 Ill. Reg. 13319, effective July 16, 1984; amended at 8 Ill. Reg. 16237, effective August 24, 1984; amended 'by adding Sections being codified with no substantive change' at 8 Ill. Reg. 17896; amended at 9 Ill. Reg. 314, effective January 1, 1985; emergency amendment at 9 Ill. Reg. 823, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9557, effective June 5, 1985; amended at 9 Ill. Reg. 10764, effective July 5, 1985; amended at 9 Ill. Reg. 15800, effective October 16, 1985; amended at 10 Ill. Reg. 1924, effective January 17, 1986; amended at 10 Ill. Reg. 3660, effective January 30, 1986; emergency amendment at 10 Ill. Reg. 4646, effective February 3, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 4996, effective March 7, 1986; amended at 10 Ill. Reg.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

10681, effective June 3, 1986; amended at 10 Ill. Reg. 11041, effective June 5, 1986; amended at 10 Ill. Reg. 12662, effective July 14, 1986; amended at 10 Ill. Reg. 15118, effective September 5, 1986; amended at 10 Ill. Reg. 15640, effective September 19, 1986; amended at 10 Ill. Reg. 19079, effective October 24, 1986; amended at 11 Ill. Reg. 2307, effective January 16, 1987; amended at 11 Ill. Reg. 5297, effective March 11, 1987; amended at 11 Ill. Reg. 6238, effective March 20, 1987; emergency amendment at 11 Ill. Reg. 12449, effective July 10, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 12948, effective August 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 18311, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 18689, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18791, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20129, effective December 4, 1987; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 889, effective January 1, 1988; SUPPARMS C, D and E reclassified to SUPPARMS E, F and G at 12 Ill. Reg. 2147; Section 114.110 reclassified to Section 114.52 at 12 Ill. Reg. 2984; amended at 12 Ill. Reg. 3505, effective January 22, 1988; amended at 12 Ill. Reg. 6170, effective March 18, 1988; amended at 12 Ill. Reg. 6719, effective March 22, 1988; amended at 12 Ill. Reg. 9108, effective May 20, 1988; amended at 12 Ill. Reg. 9699, effective May 24, 1988; amended at 12 Ill. Reg. 9940, effective May 31, 1988; amended at 12 Ill. Reg. 11474, effective June 30, 1988; amended at 12 Ill. Reg. 14255, effective August 30, 1988; emergency amendment at 12 Ill. Reg. 14364, effective September 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16729, effective September 30, 1988; amended at 12 Ill. Reg. 20171, effective November 28, 1988; amended at 13 Ill. Reg. 89, effective January 1, 1989; amended at 13 Ill. Reg. 1546, effective January 20, 1989; amended at 13 Ill. Reg. 3900, effective March 10, 1989; amended at 13 Ill. Reg. 8580, effective May 20, 1989; emergency amendment at 13 Ill. Reg. 16169, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 16015, effective October 6, 1989; amended at 14 Ill. Reg. 746, effective January 1, 1990; amended at 14 Ill. Reg. 3640, effective February 23, 1990; amended at 14 Ill. Reg. 6360, effective April 16, 1990; amended at 14 Ill. Reg. 10929, effective June 20, 1990; amended at 14 Ill. Reg. 13215, effective August 6, 1990; amended at 14 Ill. Reg. 13777, effective August 10, 1990; amended at 14 Ill. Reg. 14162, effective August 17, 1990; amended at 14 Ill. Reg. 17111, effective September 30, 1990; amended at 15 Ill. Reg. 289, effective January 1, 1991; amended at 15 Ill. Reg. 5710, effective April 10, 1991; amended at 15 Ill. Reg. 11644, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 15144, effective October 7, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3512, effective February 20, 1992; emergency amendment at 16 Ill. Reg. 4540, effective March 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 11662, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13297, effective August 15, 1992; emergency amendment at 16 Ill. Reg. 13651, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14769, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 16276, effective October 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17772, effective

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

November 13, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18815, effective November 24, 1992; amended at 17 Ill. Reg. 1091, effective January 15, 1993; amended at 17 Ill. Reg. 2277, effective February 15, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 3639, effective February 26, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 6814, effective April 21, 1993; emergency amendment at 17 Ill. Reg. 19728, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3436, effective February 28, 1994; amended at 18 Ill. Reg. 7390, effective April 29, 1994; amended at 18 Ill. Reg. 12839, effective August 5, 1994; emergency amendment at 19 Ill. Reg. 8434, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15058, effective October 17, 1995; emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9970, effective July 10, 1996; emergency amendment at 21 Ill. Reg. 682, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7413, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8652, effective July 1, 1997, for a maximum of 150 days; reclassified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15545, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 16356, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19820, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 589, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1619, effective January 20, 1999; amended at 23 Ill. Reg. 6067, effective May 4, 1999; amended at 23 Ill. Reg. 6434, effective May 13, 1999; amended at 23 Ill. Reg. 6948, effective May 30, 1999; emergency amendment at 23 Ill. Reg. 8661, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13863, effective November 19, 1999; amended at 24 Ill. Reg. 2338, effective February 1, 2000; amended at 24 Ill. Reg. 5688, effective March 20, 2000; amended at 25 Ill. Reg. , effective .

SUBPART F: PAYMENT AMOUNTS

Section 114.351 Payment Levels in Group I Counties

- a) The following payment levels are established for the GA Program.
b) The counties included in Group I are:

Boone	Kane	Ogle
Champaign	Kankakee	Whiteside
Cook	Kendall	Winnebago
DeKalb	Lake	Woodford
DuPage	McHenry	

1) Family and Children Assistance Case Payment Levels

CARETAKER RELATIVE OR RELATIVES AND CHILD OR CHILDREN ASSISTANCE	SIZE OF FAMILY	CHILD 6H-CHILDPEN ONLY
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DEPARTMENT OF HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

UNIT	CURRENT	CURRENT
1	212465	102
2		201
3	377	278
4	414	249
5	485	319
6	545	379
7	574	407
8	604	438
9	635	469
10	669	503
11	705	538
12	741	576
13	781	614
14	822	
15	866	
16	911	
17	959	
18	1010	

- 2) The Transitional Assistance case payment level in Group I counties is \$100.
- c) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding \$50-00 or \$38-00 respectively for each person above 18 or 12.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART G: OTHER PROVISIONS

Section 114.400 Persons Who May Be Included in the Assistance Unit

- a) Family and Children Assistance cases
- 1) General Assistance cases which include a child or a pregnant woman in the assistance unit are provided assistance through the Children and Family Assistance Program. Children and Family assistance cases must include at least one eligible child or a pregnant woman. A child is defined as a person who is:
- A) under age 18
- B) Age 18, and is living with his/her natural or adoptive parent, and is a full time student in a secondary school, or the equivalent level of vocational or technical training and reasonably can be expected to graduate, or complete the program, before reaching age 19.
- 2) In order for an assistance unit to be eligible, an application for a child must also include, if living in the same household and otherwise eligible for assistance:

- A) any legal parent of the dependent child; and
- B) any blood-related or adoptive brother or sister of the dependent child.
- 2) All eligible children who are blood-related or adoptive siblings in a family unit shall be included in one case.
- 4) Only the following adults may be included in a family case:
- A) A specified relative of the child and the spouse of the specified relative; or
- B) The legal guardian of the child and the spouse of the legal guardian; or
- C) The child's parents, regardless of age or marital status.
- b) Transitional Assistance cases
- 1) General Assistance is provided through the Transitional Assistance program when assistance is being requested by or on behalf of an individual defined by the Department as an adult. An adult is defined as a person who is:
- A) Age 18 or over; or
- B) Married and living with spouse, regardless of age, even if living in the residence of a natural or adoptive parent.
- 2) In a Transitional Assistance case, only the eligible individual shall be included in the assistance unit.
- c) Any person under the age of 18 who does not reside with a parent, legal guardian or spouse is ineligible for Transitional or Children and Family Assistance.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Functions and Planning Program

2) **Code Citation:** 23 Ill. Adm. Code 2310

3) **Section Numbers:** Proposed Action:
2310-80 Amendment

4) **Statutory Authority:** Implementing Section 5.07 and 5.13 and authorized by Section 5.01 of the Illinois Educational Facilities Authority Act [110 ILCS and 1015/5.01, 5.07 and 5.13].

5) **A Complete Description of the Subjects and Issues Involved:** Section 2310-80 is being amended to avoid double charging institutions by providing an exception to the Annual Fee which the Authority charges to institutions. The exception to the Annual Fee is being proposed because the Annual Fee is a user fee intended to reimburse the Authority for the cost of providing services. The Authority projects that Annual Fee revenue will be sufficient for the Authority to meet its operating expenses.

6) **Will this proposed rulemaking replace an emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this proposed rulemaking contain incorporations by reference?** No

9) **Are there any other amendments pending on this Part?** No

10) **Statement of Statewide Proposed Action:** Not to create or enlarge any State Mandate.

11) **Time, Place and Manner** in which interested persons may comment on this proposed rulemaking: Comments will be accepted for 45 days after the date of publication of this notice at the following address:

Thomas P. Conley, Executive Director
Illinois Educational Facilities Authority
120 South Riverside Plaza, Suite 1200
Chicago, Illinois 60606
(312) 876-7809

12) **Initial Regulatory Flexibility Analysis:**

A) **Type of small business affected:** Not For Profit Cultural and Educational businesses.

B) **Reporting, bookkeeping or other procedures required for compliance:**

None

C) **Types of professional skills necessary for compliance:** None

13) **Regulatory Agenda** on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Agency did not anticipate the need for this rulemaking.

The full text of the proposed amendment begins on the next page:

ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIV: ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

PART 2310

FUNCTIONS AND PLANNING PROGRAM

Section	
2310-.5	Introduction
2310-10	Who May Apply for Financing
2310-20	Types of Educational and Cultural Facilities that can be Financed
2310-30	Types of Costs that can be Financed: Outstanding Debt
2310-40	Interest Rate on the Authority's Bonds
2310-50	Method of Financing
2310-60	Length of Bond Issue
2310-70	Type of Bond Issue
2310-80	Fees
2310-90	Authority Bond Issues and Bond Ratings (Repealed)
2310-90	Estimated Fee Schedule as Special Bond Counsel with Respect to Bonds Issued by Illinois Educational Facilities Authority (Repealed)
EXHIBIT A	

AUTHORITY: Implementing Sections 5.07 and 5.13 and authorized by Section 5.01 of the Illinois Educational Facilities Authority Act [110 ILCS 1015/5.01, 5.07 and 5.13].

SOURCE: Filed December 23, 1977; amended at 4 Ill. Reg. 29, p. 270, effective July 2, 1980; amended at 6 Ill. Reg. 7414, effective July 1, 1982; codified at 7 Ill. Reg. 16396; amended at 8 Ill. Reg. 5192, effective April 6, 1984; amended at 8 Ill. Reg. 8444, effective June 5, 1984; amended at 10 Ill. Reg. 10569, effective June 30, 1986; amended at 11 Ill. Reg. 9106, effective April 28, 1987; amended at 11 Ill. Reg. 10600, effective May 26, 1987; amended at 13 Ill. Reg. 7898, effective May 15, 1989; amended at 17 Ill. Reg. 9680, effective July 1, 1993; amended at 20 Ill. Reg. 10336, effective July 1, 1996; amended at 21 Ill. Reg. 8926, effective July 1, 1997; emergency amendment at 23 Ill. Reg. 5877, effective April 30, 1999, for a maximum of 150 days; emergency expired September 27, 1999; amended at 24 Ill. Reg. 7720, effective May 11, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 2310-.80 Fees

a) The Authority charges the following fees to participating institutions for the services it provides:

- 1) Application Fee - for processing an Application for Assistance. - An "Application Fee", based upon the following schedule, is payable upon submission of an application and is not refundable:
- A) \$250 on issues up to but not including \$1,000,000 principal

ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENT

amount:

- B) \$500 on issues of \$1,000,000 up to but not including \$5,000,000 principal amount; and
 - C) \$1,000 on issues of \$5,000,000 principal amount and over.
- AGENCY NOTE: This fee will be credited to the Administrative Charge upon completion of the related bond financing.

- 2) Administrative Charge - for completing a bond financing. - An "Administrative Charge" equal to 1/4 of 1% of the principal amount of bonds issued or \$10,000, whichever is less minus the Application Fee paid, will be assessed at the closing of a financing.
- AGENCY NOTE: The Administrative Charge includes the Annual Fee for the fiscal year in which the bonds are issued.
- 3) Annual Fee - for servicing a bond financing during a fiscal year. - An "Annual Fee" will be assessed for each bond issue outstanding on July 1 of each year. For Annual Fees coming due on or after July 1, 1997, the Annual Fee shall be 1/100 of 1% of the original amount of the financing or \$7,500, whichever is less, except that the Annual Fee shall not be assessed if the issuance:
 - A) has a maturity of one year or less from the date of issuance, and
 - B) an administrative charge is paid to renew or rollover the issuance or otherwise continue the loan program established by the issuance.

- b) These fees are designed to cover the operating expenses of the Authority. In addition, the participating institutions will be expected to bear all other costs of the financing, including trustee's fees, printing expenses, the financial advisor's fee, and the fee and disbursements of bond counsel. These fees may be financed with bond proceeds.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Public Library Construction Grants
- 2) Code Citation: 23 Ill. Adm. Code 3060
- 3) Section Numbers: Proposed Action:
3060.400 Amend
3060.800 Amend
- 4) Statutory Authority: Implementing Section 3 of the Capital Development Bond Act of 1972 [30 ILCS 420/3] and authorized by Sections 3 and 8 of the Illinois Library System Act [75 ILCS 10/3 and 8].

5) A Complete Description of the Subjects and Issues Involved: Define the term "local matching funds" to ensure that libraries seeking grant funds from the Secretary of State understand that local funds are to be in place when applications are due at the Illinois State Library. An assurance is being added that state annual library revenue is sufficient to support the ongoing operations of the facility. The requirement for a letter-of-intent from grant applications is an effort to reduce the amount of paperwork involved in the process.

6) Will these proposed amendments replace an emergency amendment currently in effect? No

7) Does this rulemaking contain and automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Joseph A. Natale
Illinois State Library
300 S. Second
Springfield IL 62701
217-559-4185
jnatale@ilsos.net

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

SECRETARY OF STATE

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATE

Ill. Reg. 13078, effective September 20, 1996; emergency amendment at 20 Ill. Reg. 15081, effective November 7, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 4981, effective April 3, 1997; amended at 23 Ill. Reg. 12717, effective October 4, 1999; amended at 25 Ill. Reg. _____, effective _____.

PART 3060
PUBLIC LIBRARY CONSTRUCTION GRANTS

SUBPART A: INTRODUCTION

SUBPART A: INTRODUCTION

Section
3060.100 Program Purpose
3060.200 Duty to Administer
3060.400 Definitions

Section 3060.400 Definitions

For the purposes of this Part:

"Act" means the Illinois Library System Act [75 ILCS 10].
"Application round" means the period in which applications for grants are available to prospective applicants and completed applications are reviewed and grants awarded.

"Appropriation" means the amount of funds actually approved by the General Assembly for a particular fiscal year and allocated to fund the construction grant program under Section 8 of the Illinois Library System Act.

"Construction" includes, but is not limited to:

The construction of new public library and library systems buildings.

The acquisition, expansion, remodeling and/or alteration of existing buildings.

The purchase of initial equipment for new buildings or existing buildings which are being expanded, remodeled, or altered, under this grant.

Any combination of such activities (including architect's fees and the cost of the site if acquired in the last 2 years).

"Equipment" includes:

Machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and all other items necessary for the functioning of a particular facility as a library or as a library system facility. By way of illustration, "equipment" includes, for example, fixtures, furnishings, shelving, and carpeting. "Equipment" does not include, for example, books, periodicals, films, or recordings.

SUBPART B: GRANT APPLICATION

Section
3060.500 Priorities in Library Grant Construction Proposals
3060.600 Grant Funding Limitations
3060.700 The Chicago Public Library Branches
3060.800 Grant Application Procedure
3060.900 Requirements and Conditions of Grant Funds
3060.1000 Remodeling for Accessibility
3060.1100 Disbursement of Grant Funds

SUBPART C: APPEAL PROCEDURE

Section
3060.2000 Appeal Procedure

APPENDIX A EDA Qualified Areas (Repealed)

AUTHORITY: Implementing Section 3 of the Capital Development Bond Act of 1972 [30 ILCS 420/3] and authorized by Sections 3 and 8 of the Illinois Library System Act [75 ILCS 10/3 and 8].

SOURCE: Emergency rules adopted and codified at 7 Ill. Reg. 2017, effective January 28, 1983, for a maximum of 150 days; emergency expired June 27, 1983; adopted at 8 Ill. Reg. 2510, effective February 10, 1984; Part repealed, new Part adopted by emergency action at 9 Ill. Reg. 4560, effective March 20, 1985, for a maximum of 150 days; emergency expired August 17, 1985; Part repealed, new Part adopted at 9 Ill. Reg. 15004, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 17885, effective November 4, 1985, for a maximum of 150 days; emergency expired April 3, 1986; amended at 10 Ill. Reg. 20002, effective November 19, 1986; amended at 12 Ill. Reg. 11264, effective July 1, 1988; emergency amendment at 17 Ill. Reg. 18687, effective October 12, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 4996, effective March 14, 1994; amended at 19 Ill. Reg. 12493, effective August 22, 1995; amended at 20

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

"intersystem reciprocal borrowing" means reciprocal borrowing transactions involving a lending library and a patron registered as a borrower at a library in another system.

"library" means a tax-supported public library within an Illinois Library System. "Library" also means a branch library of a main library facility.

"library building consultant" refers to an individual, chosen by the library, with: a Master's degree in library science from a library school accredited by the American Library Association; and prior experience in at least one library construction project.

"library system" means an organization defined at Section 2 of the Library System Act.

"local matching funds" means general funds, securities, general revenue bonds, tax levy, mortgages and other locally generated monies. Local matching funds do not include any funds from the State of Illinois.

"Political unit" refers to the local governing authority.

"Public libraries with limited funds" refers to public libraries which would have received an income of less than \$10 per capita in the preceding fiscal year by using a formula whereby the library's equalized assessed valuation is multiplied by .13% and divided by the population of the library's service area.

"State fiscal year" means the period from July 1 through June 30.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

SUBPART B: GRANT APPLICATION

Section 3060-800 Grant Application procedure

The following application procedures shall apply:

- a) An intent-to-apply letter shall be submitted to the respective Regional Planning Commission in advance of the application for a construction grant. A copy of the reply from the applicable Regional Planning Commission and a copy of the intent to apply letter shall be submitted to the Illinois State Library.
- ab) The Illinois State Library shall issue application forms for library construction grants under this program.
- bc) Applying libraries and library systems shall submit the completed library construction grant application together with the following:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

documents or written assurances to be eligible for library construction grants although some of the documentation and written assurances may be waived in the application for mini-grants described in Section 3060.100(c) of this Part, upon approval of the Illinois State Library construction consultant. Documentation and written assurances may be waived if they are not relevant to the specific mini-grant. As an example, a legal description of the affected real estate may not be required for a mini-grant project to install carpeting in the existing library building.

- 1) An assurance that the real estate affected by the proposed construction is available to the library or library system.
- 2) The legal description of the affected real estate.
- 3) An assurance that other matching funds for construction are available to or now they will be secured by the library. Funds which will be available upon the grant award may include a mortgage commitment letter from a lender. Assurances from the applicant that various fund-raising activities will be undertaken in the future, where the amount to be raised remains uncertain, shall not be counted as part of the local matching funds for the purposes of Section 3060.100.
- 4) An assurance that the library will expend 90% of Secretary of State library construction grant funds within 12 months after the execution of the grant agreement. The final 10% of grant funds will be reimbursed upon receipt by the State Library of the close-out report, including the final audit, if applicable.
- 5) A library building program including preliminary construction plans. For projects with a total cost of over \$150,000, a library building consultant must work with the library in developing the building program.
- 6) Preliminary construction plans with a site plan of the proposed building.
- 7) An estimated cost per square foot (for additions and new construction).
- 8) A statement describing the necessity for the proposed project.
- 9) A statement of plans to meet existing library standards of service ("Serving Our Public: Standards for Illinois Public Libraries" - 33 W. Grand, Suite 301, Chicago, IL 60610, Illinois Library Association, revised edition, 1977). The material incorporated by reference includes no later amendments or editions. This subsection shall not apply to library systems.
- 10) A description of the project's potential contribution to the improvement of library services within the library's area of service and in any other portions of the State.
- 11) An assurance that the library will secure a fidelity bond naming the Office of the Illinois Secretary of State as the exclusive beneficiary in an amount equal to 1.25 times the grant award.
- 12) An assurance that construction work will be performed by the lump sum (fixed price) contract method.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

13) An assurance that the library will publicly announce all requirements for architectural, engineering, and land surveying services and procure these services on the basis of demonstrated competence and qualifications and negotiate contracts at fair and reasonable prices.

14) An assurance that adequate methods of obtaining competitive bidding will be employed prior to awarding the construction contract by public advertising and that the award of the contract will be made to the responsible bidder submitting the lowest acceptable bid.

15) An assurance that all laborers and mechanics employed by the contractor or subcontractors on all construction projects ~~assisted by the act~~ shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Illinois Department of Labor in accordance with the Prevailing Wage Act (820 ILCS 130).

16) An assurance that a copy of the building permit shall be supplied to the Illinois State Library prior to the actual construction and that the permit shall be posted in a prominent place on the construction site.

17) An assurance that all contractors and subcontractors shall comply with the provision of the Copeland Anti-Kick Back Act (40 USC 276c (1982)) supplemented in U.S. Department of Labor regulations (29 CFR 3 (1985)). The material incorporated by reference includes no later amendments or editions.

18) An assurance that contractors and subcontractors shall comply with all applicable provisions of the Illinois Human Rights Act [775 ILCS 5] and all Federal and State laws, rules, and regulations which prohibit discrimination because of race, color, religion, sex, marital status, national origin, ancestry, age, and physical or mental handicap.

19) An assurance that architectural, engineering and land surveying contracts will be made in accordance with the Local Government Professional Services Selection Act (30 ILCS 510).

20) An assurance that construction contracts signed by both the library board (or library system board) and contractors will be prepared on standard American Institute of Architecture (AIA) forms that are submitted to the Illinois State Library prior to the start of construction; also, all subcontractors are to perform work in accordance with the conditions and standards contained in the contracts signed by the board and the Illinois State Library. The Illinois State Library shall have the right to disapprove any such contracts between the library board or library system board and contractors if:

A) The bidding procedure outlined in subsection (c)(14) was not followed.

B) The conditions and standards specified in the contract between the Illinois State Library and the library board are

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

not incorporated into the contracts between the library board or library system board and the contractors.

21) An assurance that a revised budget will be prepared after bids have been accepted and will be submitted to the Illinois State Library for approval prior to actual construction. Such approval will be based on the exercise of professional judgment to insure that the provision of library services will not be harmed by the changes reflected in the revised budget. Such approval will also be based on the reduction in the contingency line item from 5% in the original budget to 2% of total project cost in the revised budget. Grant monies awarded are based on the amount specified in the original budget; grant awards will not be increased because of subsequent increases in revised budgets.

22) An assurance that a plaque will be placed in the completed building stating that State funds administered by the Secretary of State and State Librarian were used for the building's construction.

23) An assurance that permits any agent authorized by the Illinois State Library, upon presentation of credentials to, in accordance with the constitutional limitation on administrative searches, have full access to and the right to examine any records, books, papers, or documents, of the grantee involving transactions related to the grant.

24) An assurance that the construction will not commence until the construction contract is fully executed with required signatures by the Secretary of State, the Illinois State Library and the grantee, but will commence within 140 days after the effective date of the grant contract, and that the Project will be completed within a reasonable length of time.

25) An assurance that a sign will be displayed on the construction site stating that State funds administered by the Secretary of State and State Librarian are being used for the construction.

26) An assurance that the following reports and records will be completed and transmitted to the Illinois State Library: ~~Monthly reports--of--interest--earned-on-grant-funds; quarterly narrative and financial reports; notification within 15 days after completion of the project; a close-out report which is a final financial and narrative report within 90 days after the completion of the project; and other reports and documents, such as prevailing wage rates and receipts to verify vouchers, as reasonably may be required by the State.~~

A) Financial reports shall show the amount of authorized State and local funds, interest earned on grant funds, expenditures made from grant funds and from interest earned on grant funds, obligated funds by amount and by percentage of line item remaining as compared to the original budget.

B) Narrative reports shall state the progress of the project, accomplishments to date, problems encountered, objectives

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

met and unmet, changes implemented, and the percentage of completion of the Project to date.

- C) The close-out report shall evaluate the degree to which the grantee achieved the goals and objectives of the Project. If required by the State, the close-out report shall include a project audit report which shall be completed by an independent certified public accountant or accounting firm using Government Auditing Standards, 1994 revision (U.S. General Accounting Office, Comptroller General of the United States, c/o U.S. Gov. Bookstore, One Congress Center, 401 S. State, Suite 124, Chicago IL 60605). The project audit report shall include financial statements and compliance statements (which indicate that grant funds have been obligated in compliance with applicable laws and regulations of the State of Illinois and this Part).
- 27) An assurance that the building will remain in use as a public library or library system facility for not less than 20 years after its construction unless other use is approved by the Illinois State Library.
- 28) An assurance letter from the Illinois Historic Preservation Agency evidencing compliance with the Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420].
- 29) An assurance letter from the Illinois State Water Survey Division of the Illinois Department of Natural Resources stating that the project site is not located in a Special Flood Hazard Area. If the project site is located in a Special Flood Hazard Area, the applicant shall submit an assurance letter from the Office of Water Resources of the Illinois Department of Natural Resources, stating that the project meets the requirements of Executive Order 79-4 regarding flood damages.
- 30) An assurance that any change in the Plans and Specifications requiring a work change order will be submitted to the Illinois State Library; any change order of \$10,000 or more will be submitted to the Illinois State Library for approval prior to being effected. The change order will be approved if the change does not have an adverse impact on library services.
- 31) An assurance that any interest earned on the grant funds will be expended, without limitation or exception, exclusively on the subject construction project.
- d) All applications will be considered by the Illinois State Library Advisory Committee in accordance with the provisions of this Part.
- (Source: Amended at 25 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Motor Vehicle Advertising

2) Code Citation: 14 Ill. Adm. Code 475

3) <u>Section Numbers:</u>	<u>Adopted Action:</u>
475-310	Amend
475-360	Amend
475-370	Amend
475-510	Amend
475-520	Amend
475-530	Amend
475-540	Amend
475-610	Amend
475-710	Amend
475-720	Repeal

4) Statutory Authority: 815 ILCS 505/2 and 4

5) Effective Date of Rules: March 20, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

3) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

*) Notice of Proposal Published in Illinois Register: July 21, 2000 24 Ill. Reg. 10547

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: In response to comment:

In Section 475.360(d), deleted "If the dealer's price is lower than the average retail book price because of high mileage or damage to the vehicle, this must be clearly and conspicuously disclosed in the advertisement" and replaced it with "In addition, the advertisement must clearly and conspicuously include the following disclaimer in at least ten-point Bold-faced type: 'The value of used vehicles varies with mileage, usage and condition. Book values should be considered estimates only.'"

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

or a termination date."

Withdraw all proposed changes made to Section 475.590 as they will be considered by the Attorney General's Auto Dealers Advisory Council and revisited at a later time.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no changes requested.
- 13) Will these amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: Part 475 describes practices in the advertising of motor vehicles for sale or lease that are considered by the Attorney General to constitute unfair or deceptive acts for purposes of the enforcement of Section 2 of the Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/2). These amendments were developed over the last two years on the advice of the Attorney General's Auto Dealers Advisory Council. Their purpose is to address problems with the enforcement of these rules and changes in industry practice that have arisen since the rules were adopted in 1991. Specific changes are described below.

With respect to price advertising, Section 475.310 is amended to make it clear that purchasers must be able to purchase all vehicles described by an advertisement at the advertised price, and Section 475.360 is amended to clarify that the manufacturer's suggested retail price (MSRP) may be used as the basis for price comparisons only with respect to new vehicles and to provide a basis for price comparisons for used vehicles. Amendments to Section 475.370 require disclosures in conjunction with the use of various sales terms that imply a special price savings.

With respect to general advertising practices, Sections 475.510 and 475.520 are amended to require that advertisers clearly distinguish between terms describing used or previously driven vehicles. Section 475.530 is amended to address the advertising of rebates, and Section 475.540 is amended to remove the conditions that make it not unfair or deceptive to advertise or offer specified amounts or ranges of trade-in values, including guaranteed minimum trade-in allowances or specified ranges of amounts for trade-ins.

The amendments to Section 475.610 address disclosures that must be made with respect to the advertising of the availability of balloon note financing or of a manufacturer's tiered financing offer. The amendments to Section 475.710 and the repeal of Section 475.720 make the Illinois

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

rules comport with Federal consumer lease advertising disclosure requirements.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Patricia Kelly, Chief
Consumer Protection Division
Office of the Attorney General
100 West Randolph Street - 12th Floor
Chicago, Illinois 60601
(312)814-3749

The full text of the adopted amendments begins on the next page:

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE B: CONSUMER PROTECTION
CHAPTER II: ATTORNEY GENERAL

PART 475

MOTOR VEHICLE ADVERTISING

SUBPART A: GENERAL PROVISIONS

Section
475.110

Definitions

SUBPART B: GENERAL ADVERTISING PRACTICES

Section

475.210 Clear and Conspicuous--Disclosure of Material Terms
475.220 Footnotes and Asterisks
475.230 Print Size
475.240 Photographs and Illustrations
475.250 Abbreviations

SUBPART C: PRICE ADVERTISING

Section

475.310 Advertised Price
475.320 Advertising Limitations
475.330 Low Prices
475.340 Lowest Prices--Guaranteed Lowest Prices
475.350 Price Matching
475.360 Disclosure of Basis for Price Comparison
475.370 Sales
475.380 Liquidation Sale
475.390 Range of Savings or Price Comparison Claims
475.410 Dealer Cost/Invoice Pricing
475.420 Buy-Down Rate

SUBPART D: OTHER ADVERTISING PRACTICES

Section

475.510 Demonstrator, Executive, or Official, or Promotional Vehicles
475.520 Demonstrator and Rental Vehicles
475.530 Rebates
475.540 Trade-Ins
475.550 No Money Down
475.570 Factory Outlet
475.580 Contract Add-Ons
475.590 Gifts and Free Offers

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: CREDIT SALES ADVERTISING

Section

475.610 Credit Sales Advertising Disclosures
475.620 Advertised Terms Unavailable
475.630 Advertised Finance Rate
475.640 Advertisement of Credit Terms

SUBPART F: LEASE ADVERTISING

Section

475.710 Lease Advertising Disclosures
475.720 Other Limitations, Restrictions or Conditions (Repealed)

SUBPART G: EXEMPTION PROVISIONS

Section

475.810

Exemption

AUTHORITY: Implementing Sections 2 and 3 and authorized by Section 4 of the Consumer Fraud and Deceptive Business Practices Act [615 ILCS 505/2, 3 and 4].

SOURCE: Adopted at 15 Ill. Reg. 17949, effective December 3, 1991; amended at 25 Ill. Reg. 4819, effective _____.

SUBPART C: PRICE ADVERTISING

Section 475.310 Advertised Price

It is an unfair or deceptive act to advertise the total price of a motor vehicle without including in the advertised price all costs to the purchaser at the time of sale, or which are necessary or usual prior to delivery of such vehicle to the purchaser, including any costs of delivery, dealer preparation and any other charges of any nature; provided, however, taxes, license and title fees and a documentary service fee, as defined herein, may be excluded from the advertised price if clearly disclosed in the advertisement that these costs are excluded from the advertised price. Purchasers shall be able to purchase all vehicles described by the advertisement at the advertised price.

(Source: Amended at 25 Ill. Reg. 4819, effective _____)

Section 475.360 Disclosure of Basis for Price Comparison

a) It is an unfair or deceptive act to advertise any advertising term(s) which compare the dealer's current selling price with a higher price, explicitly or implicitly, unless the basis for the price comparison is clearly and conspicuously disclosed; provided, however, in a new

ATTORNEY GENERAL

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

vehicle context, a dealer may compare the higher and lower price without disclosing the basis for the price comparison, if the higher price is the dealer's own former (regular) price, and only if:

- 1) the former (regular) price is equal to or below the price(s) at which the dealer made a substantial number of sales of such vehicles in the recent regular course of its business; or
- 2) the former (regular) price is equal to or below the price(s) at which the dealer offered the vehicle(s) for a reasonably substantial period of time in the recent regular course of its business, openly and actively and in good faith, with an intent to sell the vehicle(s) at that price(s).

It is an unfair or deceptive act to use any advertising term(s) which compare the dealer's current selling price with a price currently being offered by another dealer for an identical vehicle, explicitly or implicitly, unless the stated higher comparative price is at or below the price at which the identical vehicle is currently being offered in the dealer's trade area by:

- 1) a reasonable number of other dealers in the same trade area; or
- 2) another dealer(s) specifically identified in the advertisement.

In a new vehicle context, it is an unfair or deceptive act to use any advertising term(s) which compares the dealer's current selling price with a "list price", or other similar terms, to claim a savings, unless such list price is the manufacturer's suggested retail price ("MSRP"), and is the price at which the vehicle is offered by a reasonable number of dealers in the dealer's trade area, or is the dealer's own former (regular) price as defined in subsection (a)(1) or (2) above. However, an advertisement may reference a MSRP in relation to the dealer's (regular) price if no savings are claimed, and the MSRP figure is disclosed and identified as such in the advertisement, and the advertisement discloses that the MSRP may not be the price at which the vehicle is sold in the trade area.

In a used vehicle context, it is an unfair or deceptive act to use terms such as "was \$ _____, now \$ _____", which compare the dealer's current selling price with a higher price; provided, however, a dealer may compare an advertised price with a retail value listed in a current, nationally recognized, and published price guide book. Said book must be from the current regional issue from the trade area where the advertisement appears, and the advertisement must clearly and conspicuously disclose which book is quoted in close proximity to the advertised price. In addition, the advertisement must clearly and conspicuously include the following disclaimer in at least ten-point bold-faced type: "The value of used vehicles varies with mileage, usage and condition. Book values should be considered estimates only." Under no circumstances may the Manufacturers Suggested Retail Price (MSRP) be used as a basis for price comparisons for used vehicles.

(Source: Amended at 25 Ill. Reg. 4819, effective 4819)

Section 475.370 Sales

It is an unfair or deceptive act to advertise the words "sale", "discount", "savings", "price cut", " ~~bargain~~", "reduced", "clearance", "tent sale", and other similar terms, which state or imply a price savings, unless the current selling price of the vehicle is reduced by a reasonable amount from the vehicle's former (regular) price as defined in Section 475.360(a)(1) or (2). If the dealer reduces the price by 5% or more, a rebuttable presumption shall exist that the price reduction was of a reasonable amount. On vehicles where the mark-up from dealer invoice is less than 5%, the dealer may use sale terms if the vehicle has been reduced by a reasonable amount. It is an unfair or deceptive act to advertise the term "clearance" without clearly and conspicuously disclosing, if such is the fact, that such "clearance" is limited to certain vehicles. It is an unfair or deceptive act to advertise the words "sale", "discount", "savings", "price cut", "reduced", "clearance", "tent sale", and other similar terms that state or imply a price savings by disclosing the duration of the words that state or imply a price savings by stating the number of days or termination date. However, in a new vehicle context, if the model cannot be reordered from the manufacturer, then the word "clearance" can be used without stating the number of days or a termination date.

(Source: Amended at 25 Ill. Reg. 4819, effective 4819)

SUBPART D: OTHER ADVERTISING PRACTICES

Section 475.510 Demonstrator, Executive, or Official, or Promotional Vehicles

It is an unfair or deceptive act to advertise any "demonstrator" vehicle without clearly and conspicuously disclosing:

- 1) the year, make, and model; and
 - 2) that the vehicle is a "demonstrator" or has been previously driven.
- It is an unfair or deceptive act to advertise any "executive" or "official" vehicle unless that such vehicle ~~vehicles~~ when so advertised ~~has been~~ used exclusively by executives of the parent motor car manufacturer's personnel or by an executive of an authorized dealer in the same make of car, or has been designated by the manufacturer as a promotional vehicle. The ~~these~~ vehicle vehicles so advertised shall not have been previously filled or sold to a member of the public prior to the appearance of the advertisement. Such executive vehicles shall be described as "executive driven" and such promotional vehicles shall be described as "official driven". ~~Vehicles described as "executive-driven" shall be qualified by the words "Driven".~~

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

c) Any reference to the term "new" in connection with a "demonstrator" cannot be more prominent than and must appear in close proximity to the term "demonstrator" or previously driven.

d) Any reference to the term "new" in connection with an "executive" or "official" vehicle cannot be more prominent than and must appear in close proximity to the term "pre-driven" or "previously driven."

(Source: Amended at 25 Ill. Reg. 4819, effective _____)

Section 475.520 Demonstrator and Rental Vehicles

a) It is an unfair or deceptive act to advertise any vehicle which has been leased or rented on an individual or fleet basis without clearly and conspicuously disclosing:

1) that the vehicle is a demonstrator or has been previously driven;

b) It is an unfair or deceptive act to advertise any vehicle which has been leased or rented on an individual or fleet basis without clearly and conspicuously disclosing:

a) the year, make and model; and
b) the fact that such vehicle has been previously titled driven, used or the word "used" words "pre-driven" or "previously driven" or words of similar import.

(Source: Amended at 25 Ill. Reg. 4819, effective _____)

Section 475.530 Rebates

a) It is an unfair or deceptive act to advertise any cash rebates including, without limitation, a payment or an offset to a consumer or payment to a dealer or third party on behalf of the consumer on the condition that the consumer purchase or lease a motor vehicle, unless the rebate is offered through a manufacturer's rebate program or a third party independent of the dealer.

b) It is an unfair or deceptive act to advertise any cash rebate through a manufacturer's rebate program without clearly and conspicuously disclosing that the dealer is paying a portion of the rebate amount if such is the case, and may have increased the price of the car accordingly. (Proper disclosure might include: "Without limitation, dealer payment of \$_____ for _____ may increase final price of vehicle.")

b) It is an unfair or deceptive act for any dealer to advertise a price wherein rebates have previously been deducted unless every consumer seeking to purchase the advertised vehicle may purchase the vehicle at the advertised price. Dealers may limit the availability of the rebate if the terms of such limitation are clearly and conspicuously

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

disclosed as a reduction from the regular price. Proper disclosure might include:

list price \$10,000
minus first-time buyer rebate
\$ 9,500
---- \$500

c) Dealers may advertise the availability of a limited rebate if the terms of the limitation are clearly and conspicuously disclosed. It is an unfair or deceptive act for any dealer to advertise a price in which limited rebates have been deducted.

(Source: Amended at 25 Ill. Reg. 4819, effective _____)

Section 475.540 Trade-Ins

a) It is an unfair or deceptive act to advertise or offer a specific trade-in allowance (i.e., "\$2500 minimum trade-in"), or a range of amounts for trade-ins (e.g., "up to \$1,000" or "as much as \$1,000"), including, without limitation, that the trade-in will be valued at a specific amount or guaranteed minimum amount, if:

1) the price of the vehicle offered for sale is increased because of the amount of the allowance; or
2) the offer fails to disclose that it is conditioned upon the purchase of additional options or services if such is the case;
3) it is an unfair or deceptive act to advertise or offer a range of amounts for trade-ins (e.g., "up to \$1,000" or "as much as \$1,000") unless the advertisement clearly and conspicuously discloses the criteria the dealer will use to determine the amount to be paid for a particular trade-in.

(Source: Amended at 25 Ill. Reg. 4819, effective _____)

SUBPART E: CREDIT SALES ADVERTISING

Section 475.610 Credit Sales Advertising Disclosures

It is an unfair or deceptive act to advertise "closed-end credit" terms in the advertisement, offer of sale, or sale of any motor vehicle if the advertisement contains any one of the following five "triggering terms": 1) amount or percentage of down payment; 2) number of payments; 3) period of repayment; 4) amount of any payment (expressed as percentage or dollar amount); or 5) amount of any finance charge, but without clearly and conspicuously disclosing:

a) amount or percentage of any down payment; 7) terms of repayment; 7) "annual percentage rate" using that term spelled out in full or the abbreviation "APR". If the annual percentage rate may be increased

ATTORNEY GENERAL

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

after the contract is signed, that fact must be disclosed. An advertisement that complies with the Federal Truth in Lending Act (15 USC 1601 et seq.) and amendments thereto, and any regulations issued or that may be issued under that Federal statute, shall be deemed in compliance with the provisions of this subsection.

- b) the contractual amount owing at the conclusion of a pre-determined schedule of installment payments, in close proximity to and, where applicable, in the same decibel tone as, the "triggering term" when a dealer advertises the availability of balloon-note financing. For the purpose of this subsection (c), balloon-note financing shall mean the manner of purchase whereby a consumer agrees to select and perform, at the conclusion of a pre-determined schedule of installment payments made in periodic or monthly amounts, one of the following options:

- 1) satisfy the balance of the contractual amount owing;
- 2) refinance any balance owing, on the terms previously agreed upon at the time of executing the retail installment contract; or
- 3) surrender the vehicle at such time and manner agreed upon at the time of executing the retail installment contract.

- c) a manufacturer's or manufacturer captive finance company's tiered financing offer. For the purpose of this subsection (c), tiered financing shall mean the manner of financing a purchase whereby a consumer must qualify for a specific manufacturer's or manufacturer captive finance company's offer according to pre-established credit qualifications.

Proper disclosures might include:

Ad copy: 1.9% APR for 48 months

Disclosures:
Financing subject to credit approval and insurability. 1.9% financing for 48 months on (vehicle make/model) in lieu of rebate to qualified buyers and ends (date). 48 months at \$ (amount) per month per \$1000 financed at 1.9% APR (level a, b, c) with 10% down on (vehicle make/model). Finance rate varies depending on credit worthiness of customer as determined by (captive finance company). Some customers will not qualify.

An advertisement which complies with the Federal Truth in Lending Act (15 USC 1601 et seq.) and amendments thereto, and any regulations issued or that may be issued thereunder, shall be deemed in compliance with the provisions of this Section.

(Source: Amended at 25 Ill. Reg. 4819, effective

4819, effective

SUBPART F: LEASE ADVERTISING

Section 475.710 Lease Advertising Disclosures

Section 475.720 Other Limitations, Restrictions or Conditions (Repealed)

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

it--is-an-unfair-or--deceptive--act--to--advertise--a--leased-vehicle--without disclosing-any-of-the-following-conditions--intentions--or--restrictions--if such-is-the-fact:

- a) Rate--of--any--excess--mileage--charge--and--the--mileage--above--which--that charge--must--be--paid;
- b) Lessee--responsibility--for--maintenance--and--repair;
- c) Lessee--liability--in--the--event--of--early--termination--of--the--lease;

(Source: Repealed at 25 Ill. Reg. 4815, effective)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities
- 2) Code Citation: 44 Ill. Adm. Code 10
- 3) Section Numbers: Adopted Action:
 - 10.20 Amend
 - 10.24 Amend
 - 10.35 Amend
 - 10.50 Amend
 - 10.62 Amend
 - 10.63 Amend
 - 10.64 Amend
 - 10.67 Amend
 - 10.68 Amend
 - 10.69 Amend
 - 10.70 Amend
 - 10.72 Amend
 - 10.81 Amend
 - 10.100 Amend

- 4) Statutory Authority: Implementing and authorized by the Business Enterprise for Minorities, Females and Persons with Disabilities Act (30 ILCS 575).
- 5) Effective Date of Rulemaking: March 19, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 13, 2000, 24 Ill. Reg. 16413
- 10) Has JCER issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: No changes
- 12) Have all the changes agreed upon by the agency and JCER been made as indicated in the agreements issued by JCER? No changes were necessary.
- 13) Will this rulemaking replace an emergency rulemaking currently in effect?
No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rulemaking: Most of the changes are non-substantive language and organizational changes. Substantive changes include allowing agencies to include in their goal statistics purchases made against CMS contracts; making it easier for a large business to qualify for certain program benefits; and requiring recertification every two years.

16) Information and questions regarding these adopted amendments shall be directed to:

Stephen W. Seiple
720 Stratton Office Building
Springfield IL 62706
(217) 782-9669

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS, AND PROPERTY MANAGEMENT
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 10

BUSINESS ENTERPRISE PROGRAM: CONTRACTING WITH BUSINESSSES OWNED
AND CONTROLLED BY MINORITIES, FEMALES AND PERSONS WITH DISABILITIES

SUBPART A: GENERAL

Section	
10.05	Introduction
10.10	Definitions

SUBPART B: GOAL AND GOAL MEASUREMENT

Section	
10.20	Goal
10.21	Contracts and Expenditures Subject to the Goal
10.22	Categories of Contracts and Expenditures Exempt from Goal
10.23	Council Review of Agency Requests for Specific Exemptions
10.24	Goal Measurement
10.25	Subcontracting

SUBPART C: AGENCY COMPLIANCE AND REPORTING

Section	
10.30	Agency Compliance
10.35	Professional and Artistic Contract Reporting

SUBPART D: PROGRAM ELIGIBILITY

Section	
10.40	Program Eligibility

SUBPART E: CERTIFICATION

Section	
10.50	General
10.55	List of Certified Businesses

SUBPART F: CERTIFICATION REQUIREMENTS AND PROCEDURES

Section	
10.60	Application
10.61	Applicant Requirements
10.62	Time to Determine Eligibility
10.63	Certification by Other Certifying Entities

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 10.64 \$14,000,000 Sales Limitation; Exception
 10.65 Citizenship/Permanent Residency
 10.66 Ownership/Control by Members of Eligible Groups
 10.67 Ownership
 10.68 Control
 10.69 Notice of Certification or Denial

SUBPART G: RECONSIDERATION, DECERTIFICATION AND RECERTIFICATION

- Section
 10.70 Review and Reconsideration
 10.71 Decertification Process
 10.72 Recertification Process

SUBPART H: SPECIAL ASSISTANCE FOR CERTIFIED BUSINESSES

- Section
 10.80 Special Assistance

SUBPART I: CONTRACT REQUIREMENTS

- Section
 10.90 Change in Eligibility
 10.91 Contract Commitment: Good Faith Effort

SUBPART J: VIOLATIONS BY VENDOR

- Section
 10.100 Violations by Vendor

AUTHORITY: Implementing and authorized by the Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 12584, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20560, effective November 16, 1998; amended at 25 Ill. Reg. 4831, effective

SUBPART B: GOAL AND GOAL MEASUREMENT

Section 10.20 Goal

The Council shall, by resolution, establish the contracting goal. In accordance with the Act, not less than 12% of the total dollar amount of State contracts, as defined in this Part, shall be the goal for awarding contracts to MBEs, FBEs, and PBEs. Unless modified by resolution of the Council, the goal shall be 5% of contracts for MBEs, 5% for PBEs and 2% for PBEs.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 25 Ill. Reg. 4831, effective

Section 10.24 Goal Measurement

a) The goal shall be measured on a full fiscal year basis. The goal shall be measured against the total dollar amount of expenditures subject to the goal. Expenditures not covered are those described in Sections 10.22 and 10.23.

b) Each user agency's expenditures, whether against contracts established by the user agency or against contracts established on behalf of a user agency by another agency such as the Department of Central Management Services, shall be included in the user agency's goal attainment statistics. Certain purchasing agencies, such as the Department of Central Management Services and the Capital Development Board, are responsible for establishing contracts for other user agencies. Those purchasing agencies shall be responsible for meeting the goal for such contracts even though the user agency may have the appropriation to fund the contract. To properly account for the goal in these situations, the following procedures shall be followed:
 1) The user agency shall review its budget and subtract from its appropriation in each major or minor object code the amount of anticipated spending on contracts established by the purchasing agency. The purchasing agency shall report that amount to the Secretary.

2) Those amounts reported by user agencies to the Secretary shall be assigned by the Secretary to the appropriate purchasing agency. Such amounts will be included in the amount upon which the purchasing agency goal is based. This procedure does not result in money actually being transferred from the user agency to the purchasing agency. Rather, the transfer is for compliance plan accounting purposes only.

3) If a purchasing agency delegates procurement authority to a user agency, the purchasing agency's goal base shall be reduced in amount of the delegation and the user agency's goal base shall be increased in like amount.

4) If the user agency transfers money from a line subject to a purchasing agency's authority, the purchasing agency's goal base shall be reduced by that amount and the user agency's goal base shall be increased by the amount of the transfer.

(Source: Amended at 25 Ill. Reg. 4831, effective

Section 10.35 Professional and Artistic Contract Reporting

a) Agencies shall give written notice report to the Secretary Council except in emergency situations, of procurement opportunities for

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

professional and artistic services service (as defined in Section 1-15.60 Artistic-35 of the Illinois Procurement Code and applicable Sections of the Department of Central Management Services Standard Procurement Rules, 44 Ill. Adm. Code 11, contracting opportunities; the report is required by Section 6a of the Act and shall be made as follows:

- a) The agency must give notice to the Council that it intends to enter into a professional and artistic contract on the same day that the potential vendor is first contacted. Notice may be electronic and delivered sent by fax or transmitted in electronic form.
- b) The notice shall include the agency name and address; contact person; contract reference number; anticipated start date; length and end date; proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice may be given on the form available from the Secretary. Notice may be mailed, hand delivered, sent by fax, or transmitted in electronic form.
- c) Upon receipt of the notice, the Secretary shall have at least 14 days to provide the agency with the names of certified vendors who might be interested in the contract. The agency shall consider all certified vendors referred by the Secretary within that 14 day period.
- d) If the professional and artistic contract is advertised in the Illinois Procurement Bulletin, the agency need not make a statement to the Council.
- e) Notice to the Secretary is not required if the procurement is advertised in the Illinois Procurement Bulletin or if the agency considers all certified vendors that provide the needed service. Notification to that effect shall be maintained by the agency in its file.

(Source: Amended at 25 Ill. Reg. 403.1, effective 4/1/01)

SUBPART E: CERTIFICATION

Section 10-50 General

- a) The primary purpose of the certification process is to verify that the business is owned and controlled by BEP eligible individuals in accordance with requirements of the Act and this part. The Secretary to the Council will oversee the certification process. The certification procedure consists of the requirements and procedures outlined in this Section.
- b) The Secretary will certify an applicant firm that meets all of the requirements of the Act and this part. The Secretary will conduct a routine review and reconsideration of each certified business at least one time every two years to ensure continued eligibility.
- c) Only certified businesses are eligible for the benefits of the Program. Agencies may count only those expenditures with a certified

- vendor, or subcontractor, toward meeting the goal.
- d) A business owned and controlled by females shall be certified as a FBE regardless of the ethnicity of the female owners.
- e) For a business to qualify as MBE, only those minorities who are male may be counted in determining ownership and control.
- f) A business owned and controlled by minority males and by minority females is a MBE for purposes of the Act.
- g) A business owned and controlled at least 51% by any combination of minorities, females and persons with disabilities shall be counted as a business owned and controlled by the eligible group that has the largest percentage of ownership. When there is a tie, the business shall select the eligible group classification.
- h) A business owned and controlled by a person with a disability, or by an entity that is a not-for-profit agency for the disabled, is a FBE regardless of the ethnicity or gender of the owner or owners, or of the governing board.
- i) These classifications facilitate consistent accounting of agency contract awards to businesses covered by the Act. These classifications do not preclude such businesses or not-for-profit agencies from receiving any contract that may be awarded under the Illinois Procurement Code [30 ILCS 500] or other applicable law.

(Source: Amended at 25 Ill. Reg. 403.1, effective 4/1/01)

SUBPART F: CERTIFICATION REQUIREMENTS AND PROCEDURES

Section 10-62 Time to Determine Eligibility

The Secretary shall contact all applicants seeking certification within 60 days after receipt of the application, and shall grant certification, deny certification, or request additional or clarifying information, in writing, make the certification decision, attempt to make a decision whether to certify or deny certification within 60 days after receipt of all requested information.

(Source: Amended at 25 Ill. Reg. 403.1, effective 4/1/01)

Section 10-63 Certification by Other Certifying Entities

- a) The Council will accept a certification by another entity in Illinois, such as a local government or vendor association. The other entity must have certification requirements and procedures equaling or exceeding those in the Act and this part.
- b) The Secretary shall investigate requirements and procedures of other certifying entities and shall report to the Council the names of those certifying entities whose certifications can be accepted.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) The other entities must agree to notify the Secretary should their requirements or procedures change in any material way. The Secretary shall periodically meet with the other certifying entities to help ensure Council requirements and procedures are being met.
- 2) If the other entities' requirements or procedures no longer equal or exceed the requirements and procedures of the Act or this Part, the Council will no longer accept those certifications. However, the Council will continue to honor previously accepted certifications until the Secretary reviews each one and, if necessary, revokes those that do not meet the requirements of the Act and this Part.
- 3) The other entities must agree to report any denial of certification or recertification to the Council, along with detailed reasons for that action.

(Source: Amended at 25 Ill. Reg. 4831, effective _____)

Section 10.64 \$14,000,000 Sales Limitation; Exception

- a) Annual gross sales of the applicant business for its most recent fiscal year must be less than \$14 million.
- 1) In determining the annual gross sales, sales of any affiliated business shall also be counted.
- 2) An affiliated business is one related to the other by virtue of significant commonality of management, or commonality of ownership (at least 5% of one company owned by owner or management personnel of the other). Other factors that may be considered in determining affiliation include, but are not limited to, sharing of office space, workers or equipment.
- b) A business with annual gross sales of \$14 million or more in its most recent fiscal year is eligible to participate in the program if the business can show that if it were to receive a particular contract or subcontract there would be a significant impact on employment of minorities, females or persons with disabilities, or in the use of BEP certified subcontractors or suppliers.
- 1) For the impact to be significant in terms of employment, the business would have to hire new employees to perform the work of the contract ~~with--a full-time equivalent to 5% of their work force--in addition~~ and at least 51% of those new hires must be minority, female or persons with disabilities.
- 2) For the impact to be significant in terms of use of subcontractors or suppliers, the business must direct 51% 75% of the value of the contract to BEP certified vendors as subcontractors or suppliers.
- Such vendors must meet all certification requirements but will not be certified or be listed in the Directory.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- c) If the business makes contractual commitments regarding hiring or use of subcontractors or suppliers, agrees to appropriate enforcement mechanisms, such as bonding or damage provisions, and meets the other requirements for certification, the Secretary, on behalf of the Council, will approve counting expenditures under that contract toward the agency's goal.

(Source: Amended at 24 Ill. Reg. 4831, effective _____)

Section 10.67 Ownership

- a) The individuals claiming ownership and control of the applicant business must own at least 51% of the business.
- b) The ownership shall be real, substantial and continuing and not simply a matter of form. "Real" is a bona fide investment in the business done at arm's length and in good faith. "Substantial" is the level of investment necessary to initiate or acquire the particular business in light of its value, the business field, the organization of the concern, and the potential sources of outside financing. The following factors, among others, are weighed together to help determine whether ownership is real, substantial, continuing and not a matter of form.
- 1) How ownership was obtained, including, but not limited to, purchase, gift or inheritance.
 - 2) How substantial was the contribution toward ownership in terms of expertise, money, or other such factors? The following are some examples of factors that may indicate insufficient contribution:
 - A) minimal cash outlay or personal investment;
 - B) a promise or agreement to contribute capital;
 - C) a note payable to the firm or other owners who are not eligible group members;
 - D) contributions for services rather than capital, except where services are unique, specialized or of a value commensurate with the ownership value of such services;
 - E) payment of contribution with funds loaned by a non-eligible group, former employer or shareholder;
 - F) no recourse loans where the borrower assumes no liability for repayment upon default; and
 - G) no recourse stock purchases wherein the purchaser assumes no liability upon default of payment other than transaction of shares.
 - 3) How the applicant holds ownership. In terms of stock holdings, the following are factors that may indicate ownership is not as stated:
 - A) minimal cash outlay or personal investment;
 - B) a promise or agreement to buy stock;
 - C) stock issued, but not purchased;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

DEPARTMENT OF "CENTRAL MANAGEMENT" SERVICES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

- D) stock certificates purchased but not in the possession of the applicant; or
- E) stock held in trust.
- 4) The applicant must provide documentary proof of ownership, including, but not limited to, the following:
- A) canceled checks or bookkeeping entries;
- B) signed purchase agreements;
- C) stock certificates, transfer ledgers and stockholder agreements;
- D) partnership agreements;
- E) profit sharing agreements; and
- F) buy-out-right agreements.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 10-69 Notice of Certification or Denial

- a) Notification of Certification
When the Secretary has determined that the applicant meets the all requirements of the Act and this Part, the Secretary will notify the applicant by letter that it has been certified.
- b) Notification of Denial of Certification
When the Secretary determines that the applicant does not meet the requirements of the Act and this Part, the Secretary shall send a letter to the applicant setting forth the rationale for the determination, inviting the applicant to provide additional information in the areas of concern and advising the applicant of the review process. The Secretary shall remove the applicant from the list of certified vendors.
- c) Effect of Denial
After all reconsiderations and reviews provided in this Part have been exhausted, if the decision remains to deny certification, the Secretary shall remove the applicant from the list of certified vendors.

- d) Reapplication
If a certification application is denied, the business may reapply one year after the date of denial. Applications submitted prior to that date will not be considered.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART G: RECONSIDERATION, DECERTIFICATION AND RECERTIFICATION

Section 10-70 Review and Reconsideration

- a) The applicant may request that the Secretary reconsider a certification denial. The Secretary shall inform the applicant of the reconsideration decision within 60 days three months after receipt of the request for reconsideration. If the decision is not favorable to the applicant, the Secretary shall inform the applicant of additional reviews that are available. If the Secretary fails to inform the applicant within the three-month period, the reconsideration request will be considered denied.
- b) The applicant may request a review of an unfavorable decision of the Secretary. The Secretary's certification committee made up of at least three council members appointed by the Council's chair, review the reconsideration decision of the Secretary. The applicant must submit this request in writing to the Secretary postmarked no later than 30 days after the applicant received the Secretary's decision.

- a) Ownership by eligible group members does not equate to control.

b) The individuals claiming ownership and control of the applicant business must actually control the applicant business. Those individuals must be in direct control of the day to day operations, and must have, and exercise, the power to make major decisions on management, policy, fiscal and operational matters. Ownership by eligible group members does not equate to control. At a minimum, the following factors will be considered in determining control.

1a) Do the articles of incorporation show the eligible group owners were involved at the time of incorporation and in what way? If the eligible group owners were not involved at the time of incorporation, when did they become involved?

2b) Corporate by-laws will be reviewed to determine:

1a) the duties of the directors and officers who occupy these positions;

B) the voting rights of the shareholders; and

C) any restrictive language that may affect the eligible group owner's stock voting rights.

3e) Are there any stock options/shareholders agreements that, if exercised, will dilute or eliminate eligible group owner control?

4d) Do the eligible group owners make decisions independently?

5e) Does a review of resumes show the eligible group owners have sufficient background, including education and training, to run the particular business and for the responsibilities assigned?

6f) Do the eligible group owners continue to work for a firm not eligible for the BEP, and if so, what is the relationship of the firm to the applicant business?

7g) Who in the firm negotiates contracts and loans, prepares estimates and makes other management and supervisory decisions?

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

The request must state why the applicant believes the Secretary's decision is wrong, must address all points raised in the Secretary's decision and must include any supporting documentation.

- c) The Council's Certification Committee, made up of at least three Council Members, shall consider any requested review of the Secretary's reconsideration decision. The Secretary will attempt to schedule a Committee meeting within 30 days after receipt of the request for review. The meeting shall be held in Springfield or Chicago unless the Committee agrees to meet at some other location. The Secretary will notify the applicant at least 10 days prior to the meeting of the location, date and time.

- d) The Secretary shall provide each Committee member with a copy of the request for review, other relevant information and a response to the points raised in the request for review. Each Committee member shall review the files prior to the meeting.

- e) The Committee Chair shall call the meeting to order, announce the matter at issue and explain the meeting procedures. The Chair shall briefly restate the reasons given for the Secretary's decision and open the floor to the applicant. The meeting shall proceed in an informal manner within these procedures. All information obtained shall be considered.

- f) The applicant may make an opening statement, but must respond to each of the reasons for denial given in the Secretary's decision. The applicant may bring call and question any witnesses. The Committee may ask questions of the applicant, the Secretary or any other person present. The Secretary may comment at any time. When the applicant is finished the Secretary may call witnesses. Both applicant and Secretary may make closing statements. Although the applicant may have an attorney or other representatives assist at the meeting, applicant must be present if any representative is present and applicant must respond to questions of the Committee.

- g) The Committee shall consider the information obtained at the meeting either as a body or individually. The Committee's decision will be based upon majority vote to be given at a Committee meeting or submitted individually to the Secretary, who shall record and report the vote.

- h) If the decision is favorable to the applicant, the Secretary will notify and place the applicant on the list of certified vendors. If the decision is adverse to the applicant, the Secretary will notify the applicant, providing the Committee's reasons and information on the further review that is available.

- i) The applicant may ask that the full Council review an adverse decision of the Certification Committee. The applicant must submit this request in writing to the Secretary. The request must be postmarked no later than 15 days after the applicant received the Committee's decision. This request must state why the applicant believes the Committee's decision is wrong, must address all points raised in the Committee's decision and must include any supporting documentation.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- j) The Secretary shall provide each Council member with a copy of the second request for review and a copy of the Secretary's file on the matter for review. In addition, the Secretary shall prepare and submit to the Council a draft response to the points raised in the second request for review. The Secretary shall consult with the Committee prior to submitting the draft.

- k) The Secretary will schedule the review at the earliest convenience of the Council. The Council shall consider the second request at the next regularly scheduled Council meeting provided that the second request was received by the Secretary at least 21 days prior to that Council meeting. If received after that time, the matter will be considered at the next following Council meeting. The applicant will be told of the location, date and time of the meeting.

- l) The Council shall consider only the written information provided or produced by the applicant, the Certification Committee and the Secretary. The Council may, on its own, request that the applicant address the Council or respond to specific questions. If the Council requests that the applicant be present, the applicant may have an attorney or other representative assist at the meeting, but the applicant must be available to respond to Council questions. The Council will allow the applicant to address the Council if the applicant makes that request as part of the second request.

- m) After reviewing all information obtained, the Council shall vote to uphold the Committee's decision, overturn the Committee's decision or have the matter sent back to the Committee for reconsideration with instructions from the Council.

- n) If the decision is favorable to the applicant, the Council shall inform the Secretary. The Secretary shall place the applicant on the list of certified vendors. The Secretary shall inform the applicant.

- o) If the decision is adverse to the applicant, the Council shall inform the Secretary. The Secretary shall notify the applicant.

- p) If the decision is to send the matter back to the Committee, the process shall continue from that point until resolved at the Committee or Council level.

(Source: Amended at 25 Ill. Reg. 4831 effective 1/1/00)

Section 10.72 Recertification Process

- a) At least 60 Sixty days prior to expiration of the certification, the Secretary shall send a letter to the business advising that it may apply for recertification by completing and returning it must complete and return the application. The application must be postmarked at least 15 days prior to expiration of the current certification. Failure to meet that deadline shall result in expiration of the certification.

- b) If the applicant submits the material 15 days before the expiration of

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- the current certification, the original certification shall remain in effect until the Secretary completes the recertification process.
- c) Upon receipt of the recertification application, the Secretary will review it for changes that affect eligibility under the Act or this Part.
 - d) If no such changes have occurred, the Secretary will recertify the applicant. If changes give rise to questions regarding eligibility, the Secretary will notify the applicant and request clarification and/or additional information.
 - e) When all questions of eligibility have been resolved in favor of the applicant, the Secretary will issue a new certification valid for a period of two three years.
 - f) If the Secretary determines that the firm is not eligible, the Secretary will notify the applicant by letter. The letter shall include the reasons for the decision and shall inform the applicant of the review and reconsideration process.

(Source: Amended at 25 Ill. Reg. 4891, effective _____)

SUBPART J: CONTRACTING FAITH EFFORTS

Section 10.91 Contract Commitment: Good Faith Effort

- a) A vendor who obtains a contract requiring hiring of BPP certified vendors, such as pursuant to Section 10.64, or who makes a voluntary contractual commitment to hire BPP certified vendors, and who fails to do so, is subject to having the contract canceled. If the agency cancels the contract, the vendor may be liable for any damages the State suffers as a result of the cancellation. The State may excuse the vendor's failure if the vendor can show a good faith effort to remain in compliance.
- b) Any vendor claiming good faith relief must fully document, in writing, the steps taken to obtain BPP certified vendors as subcontractors. The State may require that the vendor provide additional information on request. A good faith effort shall, at a minimum, consist of the following:
 - 1) contacting the Business Enterprise Bureau Division at least 15 days prior to need and requesting referrals from the certified vendor list and from any other list maintained by the Bureau Division;
 - 2) advertising in the Official State Newspaper or a local newspaper as time permits; and
 - 3) contacting appropriate organizations such as unions, contractor associations, and MBE, FBE, or PBE minority or female oriented organizations.
- c) If a good faith exception is given, the purchasing agency shall notify the Secretary of the exception and shall include all pertinent

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Information:

(Source: Amended at 25 Ill. Reg. 4891, effective _____)

SUBPART J: VIOLATIONS BY VENDOR

Section 10.100 Violations by Vendor

Should a vendor violate the Act, this Part, or the terms of contracts let pursuant to this Program, the State may pursue any or all of the following actions.

- a) A certified vendor may be decertified and an applicant for certification may be denied certification for reasons including, but not limited to:
 - 1) refusal to supply information sufficient for the Secretary or the Council to make a determination for eligibility or continued eligibility as indicated in Section 10.80 (Special Assistance Requirements);
 - 2) refusal to supply additional proof of eligibility for the Program, particularly after receiving a contract with Section 10.80 (Special Assistance) provisions;
 - 3) accepting a contract with Section 10.80 (Special Assistance) provisions when the vendor does not qualify for the Program; or
- and
- a) any other violation of the Act or this Part.
- b) The State may cancel, without penalty to the State, any contract entered into by a vendor in knowing violation of:
 - 1) the Act or this Part;
 - 2) the requirements of a contract let with Section 10.80 (Special Assistance) provisions; or
 - 3) commitments regarding use of certified vendors, including, but not limited to, those in Section 10.64 (\$14,000,000 Sales Limitation; Exception) and Section 10.91 (Contract Commitment: Good Faith Effort).
- c) In the case of a cancellation under subsection (b)(2) or (b)(3), the amount of profit applicable to amounts paid to the vendor shall be withheld from any amounts owed to the vendor. If the amount owed the vendor is insufficient to off-set profits, the vendor shall be liable to pay back to the State any balance of those profits. The profit rate shall be deemed 20% unless a lesser or greater amount can be conclusively proved.
- d) The Secretary may suspend a vendor from the program for a period of no more than one year and a contracting agency may cancel a contract for a knowing violation of:
 - 1) the Act or this Part;
 - 2) the requirements of a contract let with Section 10.80 (Special Assistance) provisions; or

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) commitments regarding use of certified vendors, including, but not limited to, those in Section 10.64 (\$14,000,000 Sales Limitation; Exception) and Section 10.91 (Contract Commitment; Good Faith Effort).
- e) Depending on the seriousness of the violation, the suspension shall be:
 - 1) from participation in the BEP program; or
 - 2) from further contracting with the State.
- f) A vendor may appeal any of the actions of the Council taken pursuant to this Section in the same manner as a vendor denied certification (see Subpart G of this Part).
- g) The Secretary shall notify the Chief Procurement Officers, State Purchasing Officers and other interested parties of the revocation of certification or of suspension.
- h) If any agency finds or suspects that a business is in violation of the Act or of this Part, such violation should be reported to the Secretary as soon as practicable after the finding.

(Source: Amended at 25 Ill. Reg. 4891, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Conditions of Employment
- 2) Code Citation: 80 Ill. Adm. Code 303
- 3) Section Number: 303.130
Amend
303.250
- 4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415]
- 5) Effective Date of Amendments: March 19, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: November 13, 2000; 24 Ill. Reg. 16429
- 10) Has JCER issued a Statement of Objection to the amendments? No
- 11) Differences between proposal and final version: In Section 303.250(c), deleted parentheticals - (1/2) and (1).
- 12) Have all the changes agreed upon by the agency and JCER been made as indicated in the agreement letter? Yes
- 13) Will these amendments replace emergency amendments currently in effect?
Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These sections are amended to mirror the collective bargaining agreements.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Stephen W. Seiple
 720 Stratton Office Building
 Springfield, IL 62706
 (217)782-9669

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
 POSITION CLASSIFICATIONS
 CHAPTER 1: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 303

CONDITIONS OF EMPLOYMENT

SUBPART A: GRIEVANCE PROCEDURE

Section	
303.10	Definition of a Grievance
303.20	Procedure
303.30	Grievance Committee
303.40	Representation

SUBPART B: LEAVE OF ABSENCE

Section	
303.90	Sick Leave
303.100	Accumulation of Sick Leave
303.102	Payment in Lieu of Sick Leave
303.105	Reinstatement of Sick Leave
303.110	Advancement of Sick Leave
303.112	Sick Leave Bank
303.115	Veterans Hospital Leave
303.125	Leave for Personal Business
303.130	Maternity/Paternity and Adoption Leave
303.135	On-The-Job Injury -- Industrial Disease
303.140	Leaves of Absence Without Pay
303.142	Leave to Attend Union Conventions
303.145	Disability Leave
303.148	Family Responsibility Leave
303.150	Employee Rights After Leave
303.153	Failure to Return
303.155	Leave to Take Exempt Position
303.160	Military and Peace Corps Leave
303.170	Military Reserve Training and Emergency Call-up
303.171	Leave for Military Physical Examinations
303.175	Disaster Service Leave With Pay
303.180	Attendance in Court
303.190	Authorized Holidays
303.200	Holiday Observance
303.215	Payment for Holidays
303.220	Holiday During Vacation
303.225	Eligibility for Holiday Pay
303.250	Vacation Eligibility
303.260	Prorated Vacation for Part-Time Employees

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

303.270	Vacation Schedule and Loss of Earned Vacation
303.290	Payment in Lieu of Vacation
303.295	Vacation Benefits on Death of Employee

SUBPART C: WORK HOURS AND SCHEDULES

Section	Work Schedules
303.300	Emergency Shut-Down
303.310	Overtime
303.320	Overtime Payable Upon
303.330	Attendance Records
303.340	Notification of Absence
303.350	Review of Attendance
303.355	

SUBPART D: UNDATED OR INCOMPLETE FORMS

Section
303.360 Undated Forms
303.370 Incomplete Forms

SUBPART E: EMPLOYEE SEPARATIONS

Section	Reason for Separation	Repayment of Benefit Time
303.380		
303.385		

SUBPART F: TUITION REIMBURSEMENT

Section	Tuition Reimbursement
303.390	

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

SOURCE: Filed May 29, 1975; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1975; amended at 3 Ill. Reg. 26, p. 189, effective July 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 70, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; codified at 7 Ill. Reg. 13209; emergency amendment at 8 Ill. Reg. 329, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7788, effective January 23, 1984; amended at 14 Ill. Reg. 3433, effective February 27, 1990; emergency amendment at 15 Ill. Reg. 5076, effective March 20, 1991, for a maximum of 150 days; emergency expired August 17, 1991; amended at 15 Ill. Reg. 5214, effective April 2, 1991; amended at 15 Ill. Reg. 14067, effective September 12, 1991; amended at 16 Ill. Reg. 8368, effective May 21, 1993; amended at 17 Ill. Reg. 5587, effective March 29, 1993; amended at 19

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

[illegible]

SURPART B: LEAVE OF ABSENCE

Section 303.130 Maternity/Paternity and Adoption Leave

Covered female members of the State "employees' group insurance program" who are pregnant and who are not on leave for child care or maternity leave may elect to certify their pregnancy within the first trimester will be eligible for three weeks (15 days) paid maternity leave. Covered members who certify their spouse's pregnancy within the first trimester will be eligible for two weeks (10 days) paid maternity leave. Employees must submit health plan notification to the health plan signed by either their physician or health plan representative to the agency personnel office no later than the 14th week of the pregnancy. The State will require proof of the birth and marriage for a non-covered spouse. A covered member will be eligible for two weeks (10 days) paid leave with a new adoption, with the leave to commence when physical custody of the child has been granted to the member, provided the member can show that the formal adoption process is under way. The agency personnel office must be notified, and the member must submit proof that the adoption process has been initiated. Leaves under this section are limited to one leave per family, per year. A covered member of the State employee group insurance program who is the member or the member's covered dependent is pregnancy within the first two trimesters will be eligible for two weeks or, in consecutive work days, paid maternity leave after the 14th week of the pregnancy. If the member is on leave for child care or maternity leave, the member may be eligible for this leave. An employee with a newly adopted child may be eligible for this two-week or, in consecutive work days, leave. When leave may be granted to a State employee whose spouse is not covered by the State group insurance program, then reasonable notification is presented along with verification of marriage or birth or adoption.

Source:	Amended	at 25	Ill.	Reg.	4847	effective
[Source: Amended	at 25	Ill.	Reg.	4847	effective	

Section 303.250 Vacation Eligibility

a) Employees, except emergency, temporary and those paid pursuant to Ill. Adm. Code 310.230, shall earn vacation time. No employee on leave of absence may earn vacation except when the leave was for the purpose of accepting a temporary working assignment in another class. Eligible employee shall earn vacation time in accordance with the following schedule:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) From the date of hire until the completion of 5 years of continuous service: 10 workdays per year of employment.
- 2) From the completion of 5 years of continuous service until the completion of 9 years of continuous service: 15 workdays per year of employment.
- 3) From the completion of 9 years of continuous service until the completion of 14 years of continuous service: 17 workdays per year of employment.
- 4) From the completion of 14 years of continuous service until the completion of 19 years of continuous service: 20 workdays per year of employment.
- 5) From the completion of 19 years of continuous service until the completion of 25 years of continuous service: 22 workdays per year of employment.
- 6) From the completion of 25 years of continuous service: 25 workdays per year of employment.
- c) Vacation time may be taken in increments of not less than one-half hour after a minimum use of one hour ~~one-half hour at a time~~ at any time after it is earned. Vacation time shall not be accumulated for more than 24 months after the end of the calendar year in which it is earned.
- d) Vacation time shall be earned in workdays and computed in hours. After an employee's earned vacation time has been so computed, if there remains a fractional balance of 1/2 hour or less, the employee shall be deemed to have earned vacation time of 1/2 hour in lieu of the fractional balance; if there remains a fractional balance of more than 1/2 hour, the employee shall be deemed to have earned a full hour of vacation time in lieu of a fractional balance.
- e) Computation of vacation time of State employees who have interrupted continuous State service shall be determined as though all previous State service which qualified for earning of vacation benefits is continuous with present service. This subsection (e) applies to vacation time earned on or after October 1, 1972.

(Source: Amended at 25 Ill. Reg. 4849, effective 7/1/80)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 2) Reading of the Part: Standards of Service Applicable to Wireless 9-1-1 Emergency Systems
- 2) Code Citation: 83 Ill. Adm. Code 728
- 3) Section Numbers:

728.100	Adopted	Amended
728.105	New Section	
728.200	New Section	
728.205	New Section	
728.210	New Section	
728.300	New Section	
728.305	New Section	
728.310	New Section	
- 4) Statutory Authority: Implementing and authorized by Section 15 of the Wireless Emergency Telephone Safety Act [50 ILCS 751/15].
- 5) Effective Date of Rules: April 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 3, 2000, at 24 Ill. Reg. 16161
- 10) Has JCRC issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: Nonsubstantive changes in punctuation and style were made.
- 12) Have all the changes agreed upon by the agency and JCRC been made as indicated in the agreement letter issued by JCRC? Yes
- 13) Will these rules replace emergency rules currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: These rules establish a mechanism for the Commission to authorize the provision of 9-1-1 wireless services. The rules contain the requirements for obtaining authorization to operate and also the standards for operations once authorization has been granted.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

16) Information and questions regarding these adopted rules shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
(217)765-3922

The full text of the adopted rules begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER 1: TELEPHONE UTILITIES

PART 728

STANDARDS OF SERVICE APPLICABLE TO WIRELESS 9-1-1 EMERGENCY SYSTEMS

SUBPART A: GENERAL PROVISIONS

Section
728.100 Application of Part
728.105 Definitions

SUBPART B: AUTHORIZATION TO OPERATE

Section
728.200 General Requirements
728.205 Implementation of Wireless 9-1-1 Service
728.210 Authorization to Operate

SUBPART C: OPERATIONS

Section
728.300 Engineering
728.305 Wireless Telecommunications Carrier Testing
728.310 Authorized Wireless 9-1-1 Answering Point Test Plan

AUTHORITY: Implementing and authorized by Section 15 of the Wireless Emergency Telephone Safety Act [50 ILCS 751/15].

SOURCE: Emergency rules adopted at 24 Ill. Reg. 16349, effective October 23, 2000, for a maximum of 150 days; adopted at 25 Ill. Reg. 4854, effective

SUBPART A: GENERAL PROVISIONS

Section 728.100 Application of Part

- a) This Part shall apply to Emergency Telephone System Boards (ETSB), qualified governmental entities, public safety agencies, State of Illinois governmental entities, local exchange telecommunications carriers and wireless carriers in the State of Illinois except to the extent of any exemptions conferred by law.
- b) Public safety agencies and wireless carriers are encouraged to cooperate to provide emergency access to wireless 9-1-1 and wireless 9-1-1 service. Public safety agencies and wireless carriers operating wireless 9-1-1 and wireless 9-1-1 systems require adequate funding to recover the costs of designing, purchasing, installing, testing, and

ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

NOTICE OF ADOPTED RULES

operating enhanced facilities, systems, and services necessary to comply with the wireless E9-1-1 requirements mandated by the Federal Communications Commission (FCC) and to maximize the availability of wireless E9-1-1 services throughout the State of Illinois.

Section 728.105 Definitions

Terms used in this Part shall have the following meanings.

- "Act" - The Wireless Emergency Telephone Safety Act [50 ILCS 751].
- "Alternate routing" - Alternate routing allows 9-1-1 calls to be alternatively rerouted to another Public Safety Answering Point (PSAP) location in the case of the overflow calls on the "B" link or PSAP failure.
- "Authorized Wireless 9-1-1 Answering Point" - An emergency telephone system board or qualified governmental entity that has notified the Chief Clerk of the Illinois Commerce Commission (Commission) and the Department of State Police of its intent to be a wireless 9-1-1 answering point or in the case of the Department where it acts as the default provider in cases in which no wireline 9-1-1 exists or in which no notification of intent to provide service has been submitted.
- "Authorized Wireless 9-1-1 System" - The geographic area that has been granted authorization from Commission Staff to use "9-1-1" as the primary wireless emergency telephone number.
- "Automatic Location Identification" or "ALI" - In an E9-1-1 system, the automatic display at the PSAP of the caller's telephone number, the address/location of the telephone, and supplementary emergency services information.
- "Automatic Number Identification" or "ANI" - Automatic display of the 9-1-1 calling party's number on the PSAP monitor.
- "Basic 9-1-1" - A general term that refers to an emergency telephone system that automatically connects a person dialing the digits "9-1-1" to an established PSAP through normal telephone service facilities. This is a voice-only service in which there is no ANI or ALI information received.
- "Call Associated Signaling" or "CAS" - A term that describes data transmission or signaling that occurs on the same channel as voice communication. In the 9-1-1 environment, CAS is associated with the transmission of the wireless caller's mobile directory number along the same channel as the caller's voice.

"CAMA Link" - The term CAMA stands for Centralized Automatic Message Accounting which is a centralized point for the recording of switched message toll call information. The information is transmitted over trunk facilities to the recording location and contains the telephone number of the party originating the call, the start and end time of the call, and the destination of the call. CAMA trunks are engineered to provide the signaling interface to the CAMA system. For 9-1-1 systems, CAMA trunks are typically used in PBX and Electronic Key applications to provide for the forwarding of ALI information to the 9-1-1 system provider.

"Cell sector" - One face of a cell antenna (typically 3-sided) that operates independently of the other sectors.

"Central office" - A switching office/facility in a telephone system that provides service to the general public, having the capability of terminating and interconnecting subscriber lines and/or trunks.

"Control office" - The control office controls the switching of ANI and selective routing information to the appropriate PSAP. The control office serves as a tandem switch in the 9-1-1 network.

"Dedicated trunking" - An arrangement in which a telephone line connection has no intermediate switching points between the originating central office and PSAP location. The facilities utilized in this arrangement may be either intra- or inter-exchange.

"Default routing" - The capability to route a 9-1-1 call to a designated (default) PSAP when the incoming 9-1-1 call cannot be selectively routed due to ANI failure, garbled digits, or other causes that prevent selective routing.

"Department" or "DPS" - The Department of State Police.

"Director" - the Director of the Department of State Police.

"Diverse routing" - The practice of routing circuits along different physical paths in order to prevent total loss of 9-1-1 service in the event of a facility failure.

"E9-1-1 selective router" - A telecommunications carrier switching office or stand alone selective routing switch equipped with enhanced 9-1-1 service capabilities. This switch serves as an E9-1-1 selective router for 9-1-1 calls from other local offices in the 9-1-1 service area.

"Emergency call" - A telephone request for emergency services that requires immediate action to prevent loss of life, reduce bodily

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

injury, prevent or reduce loss of property, and such other situations as are determined by local custom.

"Emergency service number" or "ESN" - An ESN is a three to five digit number representing a unique combination of emergency service agencies designated to serve a specific range of addresses within a particular geographical area.

"Emergency Telephone System Board" or "ETSB" - A board appointed by the corporate authorities of any county or municipality that provides for the management and operation of a 9-1-1 system within the scope of such duties and powers as are prescribed by the Emergency Telephone System Act (ETSA) (50 ILCS 750). The corporate authorities shall provide for the manner of appointment provided that members of the board meet the requirements of the statute.

"Enhanced 9-1-1" or "E9-1-1" - A general term that refers to an emergency telephone system with specific electronically controlled features such as ALI, ANI, or selective routing and that uses the master street address guide (MSAG) geographic files.

"Grade of service" - The probability (P), expressed as a decimal fraction, of a telephone call being blocked. P.01 is the grade of service reflecting the probability that one call out of one hundred will be blocked.

"Local exchange carrier" or "LEC" - A telecommunications carrier under the Public Utilities Act that provides competitive or non-competitive local exchange telecommunications services or any combination of the two as defined in Section 13-204 of the Public Utilities Act (220 ILCS 5/13-204), except a telecommunications carrier that is owned or operated by one or more political subdivisions, public or private institutions of higher education or municipal corporations of this State.

"Local number portability" - The ability for a customer to change its telephone company while still keeping the same telephone number.

"Master street address guide" or "MSAG" - The computerized geographical database which consists of all street and address data within a 9-1-1 system.

"Mobile switching office" or "MSO" - The wireless equivalent of a central office that provides switching functions for wireless calls.

"Network" - The aggregate of transmission systems and switching systems. It is an arrangement of channels, such as loops, trunks, and associated switching facilities.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Network connections" - A voice grade communication channel directly between a subscriber and a telecommunications carrier's public switched network, without the intervention of any other telecommunications carrier's switched network, that would be required to carry the subscriber's inter-premises traffic. The connection either is capable of providing access through the public switched network to a 9-1-1 system, if one exists; or, if no system exists at the time a surcharge is imposed under Section 15.3 of the Emergency Telephone System Act (50 ILCS 750/15.3), would be capable of providing access through the public switched network to the local 9-1-1 system if one existed.

"Network segment" - A portion of the network in which there are no intermediate switching points. "A" links and "B" links are network segments.

"9-1-1 database provider" - A telecommunications carrier designated by the 9-1-1 system management under contractual agreement to provide database services for the purpose of storing and updating information required for the provisioning of E9-1-1 service. There shall be one database provider per 9-1-1 system.

"9-1-1 selective routing provider" - A telecommunications carrier designated by the 9-1-1 system management under contractual agreement to provide selective routing for the purpose of coordinating E9-1-1 services. There will be one overall selective routing provider per system.

"9-1-1 service coordinator" - A telecommunications carrier designated by the 9-1-1 system management under contractual agreement to coordinate 9-1-1 service delivery with the 9-1-1 database provider, 9-1-1 selective routing provider, and all participating telecommunications carriers for the provisioning and ongoing maintenance of 9-1-1 services.

"9-1-1 system" - A 9-1-1 service provided by a jurisdiction for a specific geographic area that has been granted an order of authority by the Commission to use "9-1-1" as the primary emergency telephone number.

"Non-call associated signaling" or "NCAS" - A term that describes transmission or signaling that occurs on a separate channel than that which transmits a voice communication. In the 9-1-1 environment, NCAS refers to a wireless solution set that employs a signal control point within a wireless carrier network. The NCAS solution set permits E9-1-1 to receive ANI and ALI information relating to a wireless voice call via separate data channels, thus permitting the continued use of CMAA links.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"NPA" - Numbering plan area or area code.

"NXX" - The first three digits of a local seven digit telephone number that identifies the specific telephone company's central office serving that number.

"Number pooling" - Distributing numbers in one "NXX" code to more than one carrier and other strategies for optimizing the use of telephone numbers in the North American Numbering Plan (NANP) in the United States.

"On-line date" - A date that is agreed to by all parties as to when a 9-1-1 system is activated for the public.

"Order of Authority" - A formal order of the Commission that authorizes public agencies or public safety agencies to provide 9-1-1 service in a geographical area.

"Originating trunks" - Message trunks capable of providing ANI connecting the serving central office of the 9-1-1 calling party and the designated 9-1-1 tandem control office.

"PSAP" - Public Safety Answering Point, sometimes called a Center or 9-1-1 Center; the initial answering location of a 9-1-1 call.

"PSAP trunks" - The special service circuits between the 9-1-1 tandem control offices and the PSAP.

"Pseudo automatic number identification (pANI)" - A telephone number used to support routing of wireless 9-1-1 calls. It may identify a wireless cell, cell sector or PSAP to which the call should be routed. Also known as routing number.

"Public safety agency" - A functional division of a public agency that provides fire fighting, police, medical, or other emergency services. For the purpose of providing wireless service to users of 9-1-1 emergency services, as expressly provided for in the Act, the Department of State Police may be considered a public safety agency.

"Qualified governmental entity" - A unit of local government authorized to provide 9-1-1 services pursuant to the Emergency Telephone System Act where no ETSB exists.

"Secondary PSAP" - A location where a 9-1-1 call is transferred for dispatching purposes.

"Selective routing" - A switching system which automatically routes calls to predetermined PSAPs, based on the location of the calling

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

telephone number.

"Statewide Wireless Emergency 9-1-1 System" - All areas of the State where an ETSB or, in the absence of an ETSB, a qualified governmental entity has not declared its intention for one or more of its public safety answering points to serve as a primary wireless 9-1-1 public safety answering point for its jurisdiction. The operator of the statewide wireless emergency 9-1-1 system shall be the Department of State Police.

"System management" - The ETSB that provides for the management and operation of a 9-1-1 system within the scope of such duties and powers as are prescribed by the Emergency Telephone System Act. If no ETSB is established, then those persons given the authority to operate the 9-1-1 system by the local public agencies.

"System provider" - An entity providing 9-1-1 network or selective routing or database services.

"Tandem trunking" - An arrangement whereby an E9-1-1 call is routed from a central office to the 9-1-1 selective router to the PSAP.

"Telecommunications carrier" - Shall have the same meaning as defined in Section 13-202 of the Public Utilities Act [220 ILCS 5/13-202]. For the purpose of 9-1-1 service, this definition shall include telephone systems operating as mutual concerns.

"Transfer" - A feature which allows the PSAP telecommunicator to transfer E9-1-1 calls to a specific location, ~~not the primary PSAP~~

"Trunk" - A communications circuit between two switching nodes (e.g., central offices, PBXs, ANI/AUI controller equipment).

"Wireless carrier" - A provider of two-way cellular, broadband (personal communications service (PCS)), geographic area 800 MHz and 900 MHz Commercial Mobile Radio Service (CMRS), wireless Communications Service (WCS), or other Commercial Mobile Radio Service (CMRS), as defined by the Federal Communications Commission, offering radio communications that may provide fixed, mobile, radio location, or satellite communication services to individuals or businesses within its assigned spectrum block and geographical area or that offers real-time, two-way voice service that is interconnected with the public switched network, including a reseller of such service.

"Wireless Enhanced 9-1-1" - The ability to relay the telephone number of the originator of a 9-1-1 call, when the wireless phone has a valid call back number, and the location of the cell site or base station receiving a 9-1-1 call from any mobile handset or text telephone

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

device accessing the wireless system to the designated wireless public safety answering point through the use of automatic number identification and pseudo-automatic number identification.

"Wireless originating trunks" - Trunks that connect the wireless carriers switching office (WSO) to the wireline carriers 9-1-1 selective router.

"Wireless Phase 0" - The delivery of a wireless 9-1-1 call in which there is no ANI or ALI information received (a voice-only call).

"Wireless Phase I" - The delivery of a wireless 9-1-1 call with call-back number, when the wireless phone has a valid call-back number, and identification of the call-sector from which the call originated, as required by the FCC at 47 CFR 20.18.

"Wireless Phase II" - The delivery of a wireless 9-1-1 call with Phase I requirements plus location of the caller and selective routing based upon those coordinates as required by the FCC at 47 CFR 20.18.

"Wireless public safety answering point" - The functional division of an ETSB, qualified governmental entity, or the Department of State Police as the default accepting wireless 9-1-1 calls.

"Wireless subscriber" - An individual or entity to whom a wireless service account or number has been assigned by a wireless carrier.

SUPPORT B: AUTHORIZATION TO OPERATE

Section 728.200 General Requirements

a) The digits "9-1-1" shall be the designated emergency telephone number within the wireless system.

b) Authorized Wireless 9-1-1 Answering Points.
1) For the purpose of providing wireless 9-1-1 emergency services, an ETSB in operation on December 22, 1999, the effective date of the Act, that intended to serve as a primary wireless 9-1-1 answering point was to have notified the Chief Clerk of the Commission and the Director of DSP in writing of this intention by June 29, 2000.

2) An ETSB or, in the absence of an ETSB, a qualified governmental entity may declare its intention for one or more of its PSAPs to serve as a primary wireless 9-1-1 answering point for its jurisdiction by notifying the Chief Clerk of the Commission and the Director of DSP in writing within 6 months after receiving its authority to operate a 9-1-1 system under the Emergency Telephone System Act (see 83 Ill. Adm. Code 725).

c) Any ETSB or qualified governmental entity providing wireless 9-1-1

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

service prior to December 22, 1999 may continue to operate upon giving notification as prescribed in subsection (b) of this Section. However, the notification to the Commission and the Director of DSP must include the date upon which it commenced handling wireless 9-1-1 service as well as file a wireless plan with the Commission pursuant to Section 728.210(c).

d) Two or more ETSBs or qualified units of local government may, by virtue of an intergovernmental agreement, provide wireless 9-1-1 service. The intergovernmental agreement must be submitted with the systems' wireless plan to the Commission pursuant to Section 728.210(c).

e) DSP shall be the primary wireless 9-1-1 answering point for any jurisdiction that does not notify the Clerk of the Commission and the Director of its intention to provide wireless 9-1-1 service. However, DSP is not obligated to provide wireless enhanced 9-1-1 service.

1) Commission 9-1-1 Staff shall coordinate with DSP to ensure that they are informed of the areas not being provided wireless 9-1-1 service by an authorized wireless answering point.

2) DSP shall begin providing coverage in these areas by September 11, 2001.

3) Upon a joint request from DSP and an ETSB or qualified governmental entity, the Commission may grant authority to an ETSB or qualified governmental entity to provide wireless 9-1-1 service in the areas for which the Department is currently providing wireless 9-1-1 services.

4) DSP shall provide wireless 9-1-1 service as the default wireless PSAP in areas that do not currently have any wireline 9-1-1 service. In any of these areas where wireline 9-1-1 service does develop, the authorized 9-1-1 system has 6 months after receiving its authority to operate a 9-1-1 system from the Commission to send a letter of intent to handle wireless 9-1-1 calls pursuant to subsection (b). In this event, DSP and the ETSB or qualified governmental entity must follow the same procedures set forth in subsection (e)(3) in order for DSP to turn over the handling of wireless 9-1-1 calls to that party.

f) All wireless 9-1-1 calls shall be directed to authorized wireless 9-1-1 answering points only.

g) The Commission shall maintain a current list of all authorized wireless 9-1-1 answering points providing wireless 9-1-1 service under the Act. [50 ILCS 751/15]

Section 728.205 Implementation of Wireless 9-1-1 Service

a) ETSBs or qualified governmental entities applying to take wireless 9-1-1 calls shall begin providing the service within 6 months after receiving written notice from the Commission's 9-1-1 program to function as an authorized wireless 9-1-1 answering point, or by September 11, 2001, whichever is later.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- b) Private companies shall no longer receive wireless 9-1-1 calls after September 11, 2001 except pursuant to a contract with an authorized wireless 9-1-1 answering point to provide such service. Private companies acting on behalf of an authorized wireless 9-1-1 answering point to provide 9-1-1 service shall comply with all standards set forth in this Part as well as the requirements set forth in 83 Ill. Adm. Code 725.
- c) Any ETSB or qualified governmental entity that has submitted a letter of intent to receive wireless 9-1-1 calls shall:
 - 1) contact all the wireless carriers operating in its jurisdiction as well as its 9-1-1 service provider before filling its plan with Commission's 9-1-1 Program in order to begin the implementation process of wireless 9-1-1 service.
 - 2) file a plan with the Commission's 9-1-1 Program, as set forth in Section 728.210(c), within 3 months of filing a letter of intent with the Commission and the Director, or by November 30, 2000, whichever is later.
 - 3) designate a project coordinator who will be responsible for the overall organization with all parties involved in the project as well as the on-going production and maintenance of the project.

Section 728.210 Authorization to Operate

- a) ETSBs and qualified governmental entities that possess an order of authority to operate a 9-1-1 system in the State of Illinois and that have notified the Chief Clerk of the Commission and the Director regarding their intention of handling wireless 9-1-1 calls are the only entities that shall handle wireless 9-1-1 calls. These entities shall be known as authorized wireless 9-1-1 answering points.
- b) DSP shall be the default 9-1-1 wireless answering point in areas where no notification of intention to handle wireless 9-1-1 has been given by an authorized ETSB, a qualified governmental entity, or a combination of qualified entities through intergovernmental agreements, or where no 9-1-1 exists.
- c) Within 3 months after notifying the Commission of the ETSB's or qualified governmental entity's intent to take wireless 9-1-1 calls, or by November 30, 2000, whichever is later, the entity shall supply Commission 9-1-1 Program Staff with a plan that sets forth, at a minimum, the items contained in subsections (c)(1)-(6). In an effort to allow the various entities ample time to enter into the intergovernmental agreements required in Schedule E and devise a complete Network Diagram required in Schedule D by this subsection, Schedule E, and Schedule D must be omitted from the initial plan filing. However, Schedules E and D must be filed with 9-1-1 Program Staff no later than January 31, 2001. This must be marked as an addendum to the wireless plan if not filed with the initial plan on November 30, 2000. Nothing in this Section requires the Department to follow the filing requirements in this subsection.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) Schedule A: A narrative statement setting forth:
 - A) The name of the ETSB or qualified governmental entity or combination of such, requesting to be a 9-1-1 wireless PSAP, and the name, address and telephone number of a contact person for such ETSB or qualified governmental entity or combination;
 - B) A detailed explanation of the jurisdiction boundaries that will be covered, specifying whether such jurisdictional boundaries differ from the wireless 9-1-1 jurisdictional boundaries;
 - C) If the jurisdiction boundaries differ, an explanation of whether additional public safety agencies (fire, law enforcement, EMS) will be dispatched in response to wireless 9-1-1 calls, and how such additional public safety agencies will be dispatched, together with a list of such agencies. (see Schedule C);
 - D) The name of the 9-1-1 service provider and list of wireless carriers providing service in the specified jurisdiction;
 - E) The name, address and phone number of the project coordinator designated by 9-1-1 system management pursuant to Section 728.205(d)(3);
 - F) Phase of wireless 9-1-1 service being provided and wireless solutions (NCAS, CAS, etc.) with a time-line for implementation;
 - 2) Schedule B: A list of PSAPs within the 9-1-1 system that will be answering 9-1-1 wireless calls and their addresses;
 - 3) Schedule C: A list of additional public safety agencies that will need to be dispatched in response to wireless 9-1-1 calls and the associated call handling agreements as prescribed in 83 Ill. Adm. Code 725 in Exhibit 8 and 9. These agreements are subject to the annual rectification requirements in 83 Ill. Adm. Code 725.22(c)(6);
 - 4) Schedule D: A Network diagram provided by the 9-1-1 service provider showing the overall system configuration. Changes made to a system that affect the ability of the system to route wireless 9-1-1 calls shall be reflected in annual filings required by 83 Ill. Adm. Code 725.220(c)(5);
 - 5) Schedule E: Copies of any intergovernmental agreements entered into between ETSBs or qualified units of local governments for providing wireless 9-1-1 service;
 - 6) Schedule F: A Test Plan pursuant to Section 728.305(c).
- d) The Commission's 9-1-1 Program Staff shall review the plan, and shall notify the entity in writing stating whether it has the authorization to operate or continue to operate as an authorized wireless 9-1-1 answering point for the jurisdiction indicated in the plan. Commission Staff shall provide copies of the written notification to the Illinois Department of Central Management Services (CMS) for its processing requirements.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- e) The Commission's 9-1-1 Program Staff shall forward a copy of each authorized wireless 9-1-1 answering point's entire wireless plan to CWS for its processing.
- f) In the event that an authorized wireless 9-1-1 answering point seeks to modify its existing plan on file with the Commission's 9-1-1 Program Staff, it shall file schedules describing such modification a minimum of 10 days in advance of any changes being made.

SUBPART C: OPERATIONS

Section 728.300 Engineering

- a) 9-1-1 telecommunications service provides terminating only service that connects a person who has dialed the universal emergency service number 9-1-1 to a PSAP assigned to receive wireless 9-1-1 calls. Consistent with subsections (b) and (c) of this Section, 9-1-1 telecommunications service shall be provided through either dedicated direct trunking or tandem trunking.

- b) Dedicated trunking
- 1) Dedicated trunking shall be the standard method of providing originating 9-1-1 circuits. Originating trunks shall initially be designed assuming a minimum offered load of 1.00 CCS (expected traffic load) per 1000 wireless connections to be served or a minimum of two trunks, whichever is larger. Within one month of the on-line date of the provision of wireless 9-1-1 service, each trunk group shall be re-evaluated by the wireless carrier and maintained to assure that there is less than 1% blockage of calls placed to 9-1-1 during the average busy hour of the average busy day. Each trunk group shall be sized to deliver calls to the selective routing switch being engineered in such a manner that it will meet or exceed a P.01 grade of service or a minimum of 1 trunk. A wireless 9-1-1 originating trunk group may be designated to deliver traffic for a 9-1-1 system or multiple 9-1-1 systems depending on local call handling agreements or service requests.

- 2) Alternative incoming 9-1-1 trunking methods may be utilized if technology and/or local telecommunications facilities can be designed and implemented. The quantity of trunks and related switching components in the telephone network shall be engineered in accordance with 83 Ill. Adm. Code 725.500 for the interoffice and inter-toll network to ensure completion of calls placed to 9-1-1 during the average busy hour of the average busy day. System management shall not employ any such alternative incoming 9-1-1 trunking method without first obtaining the approval of the Commission's 9-1-1 Program.

- c) Diverse routing shall be provided for all wireline trunking facilities used to transport and terminate the wireless 9-1-1 call where facilities are available.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- d) Default routing shall be provided in the event that a wireless 9-1-1 call cannot be selectively routed. The level of default routing shall be negotiated between the 9-1-1 service provider, the wireless carrier and system management.
- e) Each telecommunications carrier shall adopt practices to minimize the possibility of service disruption on all circuits associated with 9-1-1 service to a PSAP. Such practices shall provide for circuit guarding at all terminations with protective devices that will minimize accidental worker contact. Such practices shall also contain procedures for physical or virtual identification of all 9-1-1 circuit appearances with special warning tags and/or labels, and identification of circuits in company records.
- f) Wireless carriers shall provide information to system management of changes that affect the identification and location information needed by an authorized wireless 9-1-1 answering point at least 10 business days prior to changes being made. The media used in providing this information shall be mutually agreed upon by the carrier and system management.

- g) Prior to an authorized wireless 9-1-1 answering point going on-line, wireless and local exchange carriers shall obtain and retain a contact telephone number for each system management in the event of an outage or failure of the 9-1-1 system.

- h) Wireless carriers shall adopt practices that enable notification of a primary point of contact with system management to begin within 15 minutes after a confirmed outage with the system, and also advise the primary point of contact as to the magnitude of the outage.

- i) Wireless carriers shall adopt practices that provide for notification of a primary point of contact with system management to begin within 15 minutes after the confirmed restoration of 9-1-1 services.

- j) When all 9-1-1 circuits are busy in the originating mobile switching office, the switching facility, where equipped to provide the function, shall route the caller to an announcement or busy tone or reorder tone. When an all-trunks busy condition occurs in an immediate switching facility, the switching facility, where equipped, shall route the caller to an appropriate backup answering location, announcement, busy tone or reorder tone.

- k) Wireless carriers shall provide to system management emergency phone numbers for contact on a 24 hours per day, 7 days per week basis for network and security.

Section 728.305 Wireless Telecommunications Carrier Testing

- a) No circuits associated with an authorized wireless 9-1-1 answering point shall be opened, grounded, short circuited, or tested in any manner until maintenance personnel have obtained approval of any affected circuits from the appropriate PSAP personnel. Wireless telecommunications carrier maintenance personnel shall advise system management regarding the length of time that will be required to

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

perform any work involving circuits associated with an authorized wireless 9-1-1 answering point. Wireless telecommunications carrier personnel shall notify system management and the system provider a minimum of 48 hours prior to performing mobile office switching installations, NPA additions, NXX additions, or any other scheduled event that affects 9-1-1.

b) Each wireless telecommunications carrier shall adopt mutually agreed upon testing practices in conjunction with the system management to perform, at a minimum, mobile office to PSAP 9-1-1 test calls when any of the following changes occur:

- 1) New mobile switching office installations;
- 2) NPA and NXX PANI additions;
- 3) Local number portability implementations;
- 4) Number pooling implementations; and
- 5) Any other event that affects 9-1-1.

c) Each wireless telecommunications carrier shall develop a testing plan in conjunction with the 9-1-1 system provider and system management for inclusion in the 9-1-1 systems' wireless plan that must be submitted to the Commission's 9-1-1 Program.

Section 728.310 Authorized Wireless 9-1-1 Answering Point Testing

Ongoing testing after the authorized wireless 9-1-1 answering point is on-line shall include the following:

- a) Testing with all wireless telecommunication carriers, including but not limited to the 9-1-1 database, network trunking, system overflow, system backup, default routing, and call transfers on an annual basis. The mutually agreed upon testing shall be coordinated in advance by system management and the participating wireless telecommunications carriers.
- b) Coordinated testing with the participating wireless telecommunications carriers when any of the following occurs:
 - 1) New mobile switching office installations;
 - 2) NPA and NXX PANI additions;
 - 3) Local number portability implementations;
 - 4) Number pooling implementations; and
 - 5) Any other event that affects 9-1-1.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Veterans' Homes Code

2) Code Citation: 77 Ill. Adm. Code 340

3) Section Numbers: Adopted Action:
340.1010 Amendment
340.1115 Amendment
340.1510 Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective date of Amendments: April 1, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain any incorporations by reference? Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal was Published in Illinois Register: September 1, 2000 - 24 Ill. Reg. 13263

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

- 1 In the Table of Contents, "340.1378 Resident Attendants" was added.
- 2 In the Table of Contents, "340.1730 Volunteer Program" was added.
- 3 In the Source Note, "17225" was added.
- 4 In the Source Note, "November 1, 2000; amended at 25 Ill. Reg. 4868," effective _____, was added.
- 5 In the Section Source Notes, "24" was changed to "25".
- 6 In Section 340.1510(b), "authorized" was changed to "necessary."

The following changes were made in response to comments and suggestions of JCAR: No changes were suggested.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of the Amendments:

Section 340.1010 (Incorporated and Referenced Materials) is being amended to incorporate federal regulations that became effective February 7, 2000. Section 340.1115 (Federal Veterans' Regulations) is also being amended to include new federal regulations and to delete outdated references. Section 340.1510 (Communicable Diseases) is being amended to clarify that the involuntary transfer and discharge of a resident who has a communicable, contagious, or infectious disease must be in compliance with Article III, Part 4 of the Nursing Home Care Act.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@dph.state.il.us

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 340

ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section	Definitions
340.1000	Incorporated and Referenced Materials
340.1010	General Requirements
340.1110	Federal Veterans' Regulations
340.1115	Application for License
340.1120	Criteria for Adverse Licensure Actions
340.1130	Denial of Initial License
340.1140	Revocation or Denial of Renewal of License
340.1150	Inspections, Surveys, Evaluations, and Consultations
340.1160	Presentation of Findings by the Department
340.1170	Ownership Disclosure
340.1190	Monitor and Receivership
340.1200	Determination of a Violation
340.1210	Determination of the Level of a Violation
340.1220	Plans of Correction and Reports of Correction
340.1241	Calculation of Penalties
340.1245	Conditions for Assessment of Penalties
340.1250	Reduction or Waiver of Penalties
340.1255	Supported Congregate Living Arrangement Demonstration
340.1260	Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section	Facility Policies
340.1300	Admission and Discharge Policies
340.1310	Disaster Preparedness
340.1320	Serious Incidents and Accidents
340.1330	Infection Control
340.1335	Facility Record Requirements
340.1340	Personnel Policies
340.1350	Initial Health Evaluation for Employees
340.1360	Administration
340.1370	Personnel Requirements
340.1375	Registry of Certified Nurse Aides
340.1377	Health Care Worker Background Check
340.1378	Resident Attendants

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: RESIDENT RIGHTS

Section
340.1400 Implementation of Resident Rights and Facility Responsibilities
340.1410 General
340.1420 Contract Between Resident and Facility
340.1430 Residents' Advisory Council
340.1440 Abuse and Neglect
340.1450 Communication and Visitation
340.1460 Resident's Funds
340.1470 Transfer or Discharge
340.1480 Complaint Procedures
340.1490 Private Right of Action

SUBPART D: HEALTH SERVICES

Section
340.1500 Medical Care Policies
340.1505 Medical, Nursing and Restorative Services
340.1510 Communicable Disease Policies
340.1520 Tuberculin Skin Test Procedures
340.1530 Physician Services
340.1535 Dental Programs
340.1540 Life-Sustaining Treatments
340.1550 Obstetrical and Gynecological Care
340.1560 Nursing Personnel
340.1570 Personal Care
340.1580 Restraints
340.1590 Non-emergency Use of Physical Restraints
340.1600 Emergency Use of Physical Restraints
340.1610 Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620 Medication Administration
340.1630 Self-Administration of Medication

SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section
340.1650 Medication Policies and Procedures
340.1655 Conformance with Physician's Orders
340.1660 Administration of Medication
340.1665 Control of Medication
340.1670 Labeling and Storage of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section
340.1700 Recreational and Activity Programs
340.1710 Social Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART G: RESIDENT RECORDS

340.1720 Work Programs
340.1730 Volunteer Program

Section
340.1800 Resident Record Requirements
340.1810 Content of Medical Record
340.1820 Records Pertaining to Resident's Property
340.1830 Retention, Transfer, and Inspection of Records
340.1840 Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section
340.1900 Food Service Staff
340.1910 Diet Orders
340.1920 Meal Planning
340.1930 Therapeutic Diets (Repealed)
340.1940 Menus and Food Records
340.1950 Food Preparation and Service
340.1960 Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES, FURNISHINGS, EQUIPMENT AND SUPPLIES

Section
340.2000 Maintenance
340.2010 Water Supply, Sewage Disposal and Plumbing
340.2020 Housekeeping
340.2030 Laundry Services
340.2040 Furnishings
340.2050 Equipment and Supplies

340.2060 TABLE A Heat Index Table/Apparent Temperature

340.2070 TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendments at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

amended at 23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1, 2000; amended at 25 Ill. Reg. 4860, effective April 1, 2001.

SUBPART A: GENERAL PROVISIONS

Section 340.1010 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

- 1) Private and professional association standards:
 - A) American Dietetic Association Minimum Requirements for American Dietetic Association Membership (1998/1998), which may be obtained from the American Dietetic Association, 216 W. Jackson, 434 North Michigan Avenue, Chicago, Illinois 60606-6995 68411.
 - B) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1995), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302.

2) Federal government publications regulations:

- A) U.S. Public Health Service, Guidelines for the Prevention and Control of Nosocomial Infections, which includes the following guidelines and may be obtained from the Center for Infections Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333.

A) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981):

B) Guideline for Handwashing and Hospital Environmental Control (1985):

C) Guideline for Prevention of Intravascular Infections (October 1981):

D) Guideline for Prevention of Surgical Wound Infections (March 1982; Revised 1985):

E) Guideline for Prevention of Nosocomial Pneumonia (February 1994/4/1992):

F) Guideline for Isolation Precautions in Hospitals (January 1996/4/1993):

G) Guideline for Infection Control in Hospital Personnel (July 1983): 7

3) Federal regulations:

- A) Definitions (38 CFR 51.2, effective February 7, 2000);
- B) Resident rights (38 CFR 51.70, effective February 7, 2000);
- C) Admission, transfer and discharge rights (38 CFR 51.80, effective February 7, 2000);
- D) Resident behavior and facility practices (38 CFR 51.90, effective February 7, 2000);

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- E) Quality of life (38 CFR 51.100, effective February 7, 2000);
- F) Resident assessment (38 CFR 51.110, effective February 7, 2000);
- G) Quality of care (38 CFR 51.120, effective February 7, 2000);
- H) Nursing services (38 CFR 51.130, effective February 7, 2000);
- I) Dietary services (38 CFR 51.140, effective February 7, 2000);
- J) Physician services (38 CFR 51.150, effective February 7, 2000);
- K) Specialized rehabilitative services (38 CFR 51.160, effective February 7, 2000);
- L) Dental services (38 CFR 51.170, effective February 7, 2000);
- M) Pharmacy services (38 CFR 51.180, effective February 7, 2000);
- N) Infection control (38 CFR 51.190, effective February 7, 2000);
- O) Physical environment (38 CFR 51.200, effective February 7, 2000);
- P) Administration (38 CFR 51.210, effective February 7, 2000);
- Q) General program requirements for construction and acquisition of and equipment for State home facilities (38 CFR 51.177);
- R) Domestic and nursing home care program (38 CFR 17.138);
- S) State home hospital program (38 CFR 17.139);
- T) General design guidelines and standards (38 CFR 17.183);
- U) The following Federal and State statutes are referenced in this Part:
 - 1) Civil Rights Act of 1964 (42 USC 6541-6542 et seq.);
 - 2) Social Security Act (42 USC 405-406 et seq.);
 - 3) Veterans' Benefits (38 USC 5-5-6; 101; 38 USC 8-5-6; 641 et seq.);
 - 4) The Illinois Dental Practice Act (211 Rev. Stat. 1991; ch. 111, paras. 2393-2394 et seq.); [225 ILCS 25];
 - 5) The Electric Code (211 Rev. Stat. 1991; ch. 46, paras. 1-1 et seq.); [10 ILCS 5];
 - 6) Freedom of Information Act (211 Rev. Stat. 1991; ch. 116, para. 261 et seq.); [5 ILCS 140];
 - 7) General Corporation Act of 1986 (211 Rev. Stat. 1991; ch. 39, par. 001-61 et seq.); [805 ILCS 105];
 - 8) Illinois Health Facilities Planning Act (211 Rev. Stat. 1991; ch. 114-2/2, paras. 111-1 et seq.); [20 ILCS 3560];
 - 9) The Illinois Nursing and Advanced Practice Nursing Act (Act of 1997; 211 Rev. Stat. 1991; ch. 111, paras. 3-361 et seq.); [225 ILCS 65];
 - 10) Illinois Occupational Therapy Practice Act (211 Rev. Stat. 1991; ch. 111, paras. 3701-3704 et seq.); [225 ILCS 75];
 - 11) Illinois Physical Therapy Act (211 Rev. Stat. 1991; ch. 111, paras. 4251 et seq.); [225 ILCS 90];

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 12) Life Care Facilities Act (413-Rev-Stat-1993-CH-133-1/2-
para-4160-1-et-seq) [210 ILCS 40];
13) Medical Practice Act of 1987 (413-Rev-Stat-1991-CH-117-
para-4460-1-et-seq) [225 ILCS 60];
14) Mental Health and Developmental Disabilities Code (413-Rev-
Stat-1991-CH-91-1/2-para-1-180-et-seq) [405 ILCS 5];
15) Nursing Home Administrators Licensing and Disciplinary Act (413-
Rev-Stat-1991-CH-117-para-3651-et-seq) [225 ILCS 70];
16) Nursing Home Care Act (413-Rev-Stat-1991-CH-113-1/2-para-
413-101-et-seq) [210 ILCS 45];
17) Pharmacy Practice Act of 1987 (413-Rev-Stat-1991-CH-117-
para-4421-et-seq) [225 ILCS 85];
18) Probate Act of 1975 (413-Rev-Stat-1991-CH-110-1/2-para-1-1-
et-seq) [755 ILCS 5];
19) The Illinois Public Aid Code (413-Rev-Stat-1991-CH-23-para-
1-1-et-seq) [305 ILCS 5].

c) The following State of Illinois rules are referenced:

- 1) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690);
- 2) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693);
- 3) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 754);
- 4) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 690);
- 5) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905);
- 6) Department of Public Health, Drinking Water Systems Code (77 Ill. Adm. Code 900);
- 7) Department of Public Health, Illinois Water Well Construction Code (77 Ill. Adm. Code 920);
- 8) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925);
- 9) Department of Professional Regulation, Controlled Substances Act (77 Ill. Adm. Code 3100);
- 10) Department of Alcoholism and Substance Abuse, Alcoholism and Substance Abuse Assessment, Intervention and Research Programs (77 Ill. Adm. Code 2058);
- 11) Department of Public Aid, Access to Cost Reports (89 Ill. Adm. Code 140.544);
- d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards that are specified and do not include any additions or deletions subsequent to the date specified.
- e) All citations to federal regulations in this notice concern the specified regulation in the 1991 Code of Federal Regulations, unless another date is specified.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 25 Ill. Reg. 4869, effective
April 1, 2001)

Section 340.1115 Federal Veterans' Regulations

The facility shall comply with the following:

- a) Definitions (38 CFR 51.21);
 - b) Resident rights (38 CFR 51.70);
 - c) Admission, transfer and discharge rights (38 CFR 51.80);
 - d) Resident behavior and facility practices (38 CFR 51.90);
 - e) Quality of life (38 CFR 51.100);
 - f) Resident assessment (38 CFR 51.110);
 - g) Quality of care (38 CFR 51.120);
 - h) Nursing services (38 CFR 51.130);
 - i) Dietary services (38 CFR 51.140);
 - j) Physician services (38 CFR 51.150);
 - k) Specialized rehabilitative services (38 CFR 51.160);
 - l) Dental services (38 CFR 51.170);
 - m) Pharmacy services (38 CFR 51.180);
 - n) Infection control (38 CFR 51.190);
 - o) Physical environment (38 CFR 51.200); and
 - p) Administration (38 CFR 51.210).
 - q) General program requirements for construction and acquisition of and equipment for State home facilities (48 CFR 13.177);
 - b) Home care and nursing home care program (48 CFR 13.178);
 - c) State home hospital program (48 CFR 13.179); and
 - d) General design guidelines and standards (48 CFR 13.181).
- (Source: Amended at 25 Ill. Reg. 4869, effective
April 1, 2001)

SUBPART D: HEALTH SERVICES

Section 340.1510 Communicable Disease Policies

- a) The facility shall meet the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).
- b) A resident who is suspected of or diagnosed as having any communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility. ~~until isolation can be discontinued or the person can be transferred.~~
- c) All illnesses required to be reported under the Control of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall inform the Department of all incidents of scabies and other skin infestations.

- d) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious disease. The notice to the Department shall include at least the date of the admission and the nature of the condition.

(Source: Amended at 25 Ill. Reg. 4869, effective April 1, 2001)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Numbers: Adopted Action: 340.1223 Amendment
- 4) Statutory Authority: Nursing Home Care Act (210 ILCS 45)
- 5) Effective date of amendment: April 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal was Published in Illinois Register: September 1, 2000 - 24 Ill. Reg. 13273
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
 1. In the Table of Contents, "(Repealed)" was added after "350.290 Quarterly List of Violators".
 2. In the Table of Contents, "350.682 Resident Attendants" was added.
 3. In the Table of Contents, "350.1055 Volunteer Program" was added.
 4. In the Source Note, "17245" and "November 1, 2000; amended at 24 Ill. Reg. 4879, effective April 1, 2001" were added.
 5. In Section 350.1223, "authorized" was changed to "necessary".
 6. In the Section Source Note, "24" was changed to "25".

The following changes were made in response to comments and suggestions of JCAR: No changes were suggested.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were suggested.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

11) Will this amendment replace an emergency amendment currently in effect?
No

14) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
350.252	Amendment	24 Ill. Reg. 17448
350.260	Amendment	24 Ill. Reg. 17448
350.3850	Amendment	24 Ill. Reg. 17448

15) Summary and purpose of the amendments: Section 350.1223 (Communicable Disease policies) is being amended to clarify that the involuntary transfer and discharge of resident who have communicable contagious or infectious disease must be in compliance with Article III, Part 4 of the Nursing Home Care Act.

16) Information and questions regarding this adopted amendment shall be directed to:

Paul Thompson,
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/787-2043
e-mail: rules@dph.state.il.us

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

SECTION

350.11.	General Requirements
350.120	Application for License
350.13	License
350.14	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse License Actions
350.17	Denial of Initial License
350.172	Denial of Renewal of License
350.173	Revocation of License
350.180	Revocation of License Conflicting With Requirements
350.190	Inspection Program
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.21	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the License
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators (Repealed)
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.314	Supported Congregate Living Arrangement Demonstration
350.320	Waivers
350.320	Definitions
350.340	Incorporated and Referenced Materials

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: ADMINISTRATION

Section
350.510 Administrator

SUBPART C: POLICIES

Section
350.610 Management Policies
350.620 Resident Care Policies
350.625 Determination of Need Screening
350.630 Admission and Discharge Policies
350.640 Contract Between Resident and Facility
350.650 Residents' Advisory Council
350.660 General Policies
350.670 Personnel Policies
350.675 Initial Health Evaluation for Employees
350.680 Developmental Disabilities Aides
350.681 Health Care Worker Background Check
350.682 Resident Attendants
350.683 Registry of Developmental Disabilities Aides
350.685 Student Interns
350.690 Disaster Preparedness
350.700 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
350.810 Personnel
350.820 Consultation Services
350.830 Personnel Policies

SUBPART E: RESIDENT LIVING SERVICES

Section
350.1010 Service Programs
350.1020 Psychological Services
350.1030 Social Services
350.1040 Speech Pathology and Audiology Services
350.1050 Recreational and Activities Services
350.1055 Volunteer Program
350.1060 Training and Habilitation Services
350.1070 Training and Habilitation Staff
350.1080 Restraints
350.1082 Nonemergency Use of Physical Restraints
350.1084 Emergency Use of Physical Restraints
350.1086 Unnecessary, Psychotropic and Antipsychotic Drugs

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: HEALTH SERVICES

Section
350.1210 Health Services
350.1220 Physician Services
350.1223 Communicable Disease Policies
350.1225 Tuberculin Skin Test Procedures
350.1230 Nursing Services
350.1235 Life-Sustaining Treatments
350.1240 Dental Services
350.1250 Physical and Occupational Therapy Services

SUBPART G: MEDICATIONS

Section
350.1410 Medication Policies and Procedures
350.1420 Conformance with Physician's Orders
350.1430 Administration of Medication
350.1440 Labelling and Storage
350.1450 Control of Narcotics and Legend Drugs

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
350.1610 Resident Record Requirements
350.1620 Content of Medical Records
350.1630 Confidentiality of Resident's Records
350.1640 Records Pertaining to Residents' Property
350.1650 Retention and Transfer of Resident Records
350.1660 Other Resident Record Requirements
350.1670 Staff Responsibility for Medical Records
350.1680 Retention of Facility Records
350.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
350.1810 Director of Food Services
350.1820 Dietary Staff in Addition to Director of Food Services
350.1830 Hygiene of Dietary Staff
350.1840 Diet Orders
350.1850 Meal Planning
350.1860 Therapeutic Diets (Repealed)
350.1870 Scheduling Meals
350.1880 Menus and Food Records
350.1890 Food Preparation and Service
350.1900 Food Handling Sanitation
350.1910 Kitchen Equipment, Utensils, and Supplies

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
350.2010 Maintenance
350.2020 Housekeeping
350.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
350.2210 Furnishings
350.2220 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
350.2410 Codes
350.2420 Water Supply
350.2430 Sewage Disposal
350.2440 Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2610 Applicability of These Standards
350.2620 Codes and Standards
350.2630 Preparation of Drawings and Specifications
350.2640 Site
350.2650 Administration and Public Areas
350.2660 Nursing Unit
350.2670 Dining, Living, Activities Rooms
350.2680 Therapy and Personal Care
350.2690 Service Departments
350.2700 General Building Requirements
350.2710 Structural
350.2720 Mechanical Systems
350.2730 Plumbing Systems
350.2740 Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2910 Applicability
350.2920 Codes and Standards
350.2930 Preparation of Drawings and Specifications
350.2940 Site

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

350.2950 Administration and Public Areas
350.2960 Nursing Unit
350.2970 Living, Dining, Activities Rooms
350.2980 Treatment and Personal Care
350.2990 Service Departments
350.3000 General Building Requirements
350.3010 Structural
350.3020 Mechanical Systems
350.3030 Plumbing Systems
350.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
350.3210 General
350.3220 Medical and Personal Care Program
350.3230 Restraints
350.3240 Abuse and Neglect
350.3250 Communication and Visitation
350.3260 Resident's Funds
350.3270 Residents' Advisory Council
350.3280 Contact with Facility
350.3290 Private Right of Action
350.3300 Transfer or Discharge
350.3310 Complaint Procedures
350.3320 Confidentiality
350.3330 Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED OF 16 BEHS OR LESS

Section
350.3710 Applicability of Other Provisions of this Part
350.3720 Administration
350.3730 Admission and Discharge Policies
350.3740 Personnel
350.3750 Consultation Services and Nursing Services
350.3760 Medication Policies
350.3770 Food Services
350.3780 Codes and Standards
350.3790 Administration and Public Areas
350.3800 Bedrooms
350.3810 Nurses Station
350.3820 Bath and Toilet Rooms
350.3830 Utility Rooms
350.3840 Living, Dining, Activity Rooms
350.3850 Therapy and Personal Care
350.3860 Kitchen

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

350.3870 Laundry Room
350.3880 General Building Requirements
350.3890 Corridors
350.3900 Special Care Room
350.3910 Exit Facilities and Subdivision of Floor Areas
350.3920 Stairways, Vertical Openings and Doorways
350.3930 Hazardous Areas and Combustible Storage
350.3940 Mechanical Systems
350.3950 Heating, Cooling, and Ventilating Systems
350.3960 Plumbing Systems
350.3970 Electrical Systems
350.3980 Fire Alarm and Detection System
350.3990 Emergency Electrical System
350.4000 Fire Protection
350.4010 Construction Types
350.4020 Equivalencies
350.4030 New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

Day Care in Long-Term Care Facilities

Section
350.4210
APPENDIX A Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
APPENDIX B Federal Requirements Regarding Residents' Rights (Repealed)
APPENDIX C Seismic Zone Map
APPENDIX D Forms for Day Care in Long-Term Care Facilities
APPENDIX E Guidelines for the Use of Various Drugs
TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
TABLE D Food Service Sanitation Rules and Regulations, 77 Ill. Adm. Code
TABLE E Developmentally Disabled of Sixteen (16) Beds or Less
TABLE F Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act (210 ILCS 45).

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1,

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1991; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8196, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 19 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 4679 — effective

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

SUBPART F: HEALTH SERVICES

Section 350.1223 Communicable Disease Policies

- a) The facility shall meet the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).
- b) The facility shall not knowingly admit a person with a communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, except as allowed in subsection (d) of this Section. A resident who is suspected of or diagnosed as having any such disease shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility. ~~Anti-isolation can be discontinued if the person can be transferred.~~
- c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall also inform the Department of all incidents of scabies and other skin infestations.
- d) Admission of Persons with Communicable, Contagious, or Infectious Diseases.

1) Persons with communicable, contagious, or infectious diseases may be admitted under the following conditions:

- A) When a person's infectious condition is directly related to one or more chronic pressure sores, from which laboratory tests have proven the presence of a pathogenic organism. Such a person may be admitted if the facility is capable of implementing appropriate treatment and isolation techniques to avoid secondary spread of infection.
 - B) When a person's condition is communicable, contagious, or infectious only through blood or other body fluid contact, such as hepatitis, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV) infection.
- 2) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious disease under subsection (d)(1) of this Section. The notice to the Department shall include at least the date of the admission and the nature of the condition.
- 3) Written approval to admit or keep a person with other

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

- e) Infection control: Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. A group, either an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code. Activities shall be monitored to ensure that these policies and procedures are followed.

(Source: Amended at 25 Ill. Reg. 4678, effective

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Numbers: Adopted Action:
390.1020 Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of amendment: April 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal was Published in Illinois Register: September 1, 2000 - 24 Ill. Reg. 13289
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version:
The following changes were made in response to comments received during the first notice or public comment period:
 1. In the Table of Contents, "(Repealed)" was added after "390.290 Quarterly List of Violators".
 2. In the Table of Contents, "390.682 Resident Attendants" was added.
 3. In the Main Source Note, "17283" and "November 1, 2000; amended at 24 Ill. Reg. 13289, effective 1/1/01" was added.
 4. In Section 390.1020(c)(2), "authorized" was changed to "necessary".
 5. In Section 390.1020(d)(2)(A), "October" was stricken and "February 1," was added.
 6. In Section 390.1020(d)(2)(B), "January 1," was added.
 7. In Section 390.1020(d)(2)(C), "October" was stricken and "August 1," was added.
 8. In Section 390.1020(d)(2)(E), "February 1994" was stricken and

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

- "January 3, 1997" was added.
9. In Section 390.1020(d)(2)(F) and (G), "1," was added.
 10. In the Section Source Note, "24" was changed to "25".
- The following changes were made in response to comments and suggestions of JCAR:
1. In the Table of Contents, "390.682" was added.
 2. In Section 390.1020(d)(2)(C), the opening parenthesis before "1981" was stricken.
- In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
 - 13) Will this amendment replace an emergency amendment currently in effect? No
 - 14) Are there any other amendments pending on this Part? No
 - 15) Summary and purpose of the amendment: Section 390.1020 (Medical Services) is being amended to clarify that the involuntary transfer and discharge of a resident who has a communicable, contagious, or infectious disease must be in compliance with Article III, Part 4 of the Nursing Home Care Act.
 - 16) Information and questions regarding this adopted amendment shall be directed to:
 Paul Thompson
 Division of Legal Services
 Department of Public Health
 535 West Jefferson, Fifth Floor
 Springfield, Illinois 62761
 217/782-2043
 e-mail: ru.es@dph.state.il.us

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 390

LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
390.110	General Requirements
390.120	Application for License
390.130	License
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
390.160	Issuance of a Renewal License
390.165	Criteria for Adverse License Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.190	Experimental Program Conflicting With Requirements
390.200	Inspections, Surveys, Evaluations and Consultation
390.210	Filing an Annual Attested Financial Statement
390.220	Information to be Made Available to the Public by the Department
390.230	Information to be Made Available to the Public by the Licensee
390.240	Municipal Licensing
390.250	Ownership Disclosure
390.260	Issuance of Conditional Licenses
390.270	Monitor and Receivership
390.271	Presentation of Findings
390.272	Determination to Issue a Notice of Violation or Administrative Warning
390.274	Determination of the Level of a Violation
390.276	Notice of Violation
390.277	Administrative Warning
390.278	Plans of Correction
390.280	Reports of Correction
390.282	Conditions for Assessment of Penalties
390.284	Calculation of Penalties
390.286	Determination to Assess Penalties
390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators (Repealed)
390.300	Alcoholism Treatment Programs in Long-Term Care Facilities
390.310	Department May Survey Facilities Formerly Licensed
390.315	Supported Congregate Living Arrangement Demonstration
390.320	Waivers
390.330	Definitions
390.340	Incorporated and Referenced Materials

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: ADMINISTRATION

Section	
390.500	Administrator

SUBPART C: POLICIES

Section	
390.610	Management Policies
390.620	Resident Care Policies
390.630	Admission and Discharge Policies
390.640	Contract Between Resident and Facility
390.650	Residents' Advisory Council
390.660	General Policies
390.670	Personnel Policies
390.675	Initial Health Evaluation for Employees
390.680	Child Care/Habilitation Aides
390.681	Health Care Worker Background Check
390.682	Resident Attendants
390.683	Registry of Child Care/Habilitation Aides
390.685	Student Interns
390.690	Disaster Preparedness
390.700	Serious Incidents and Accidents

SUBPART D: PERSONNEL

General
Categories of Personnel
Consultation Services

Section
390.810
390.820
390.830

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section	
390.1010	Service Programs
390.1020	Medical Services
390.1025	Life-Sustaining Treatments
390.1030	Physician Services
390.1035	Tuberculin Skin Test Procedures
390.1040	Nursing Services
390.1050	Dental Care Services
390.1060	Physical and Occupational Therapy Services
390.1070	Psychological Services
390.1080	Social Services
390.1090	Speech Pathology and Audiology Services
390.1100	Recreational and Activity Services
390.1110	Educational Services
390.1120	Work Activity and Prevocational Training Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: RESTRAINTS AND BEHAVIOR
MANAGEMENT

Section	Restraints
390.1310	Nonemergency Use of Physical Restraints
390.1312	Emergency Use of Physical Restraints
390.1314	Unnecessary, Psychotropic, and Antipsychotic Drugs
390.1316	Behavior Management
390.1320	Behavior Emergencies (Repealed)
390.1330	

SUBPART G: MEDICATIONS

Section	Medication Policies and Procedures
390.1410	Conformance with Physician's Orders
390.1420	Administration of Medication
390.1430	Labeling and Storage of Medications
390.1440	Control of Narcotics and Legend Drugs
390.1450	

SUBPART H: RESIDENT AND FACILITY RECORDS

Section	Resident Record Requirements
390.1610	Content of Medical Records
390.1620	Confidentiality of Resident's Records
390.1630	Records Pertaining to Residents' Property
390.1640	Retention and Transfer of Resident Records
390.1650	Other Resident Record Requirements
390.1660	Staff Responsibility for Medical Records
390.1670	Retention of Facility Records
390.1680	Other Facility Record Requirements
390.1690	

SUBPART I: FOOD SERVICE

Section	Director of Food Services
390.1810	Dietary Staff in Addition to Director of Food Services
390.1820	Hygiene of Dietary Staff
390.1830	Diet Orders
390.1840	Meal planning
390.1850	Infant and Therapeutic Diets
390.1860	Scheduling Meals
390.1870	Menus and Food Records
390.1880	Food Preparation and Service
390.1890	Preparation of Infant Formula
390.1900	Food Handling Sanitation
390.1910	Kitchen Equipment, Utensils, and Supplies
390.1920	

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section	Maintenance
390.2010	Housekeeping
390.2020	Laundry Services
390.2030	

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section	Furnishings
390.2210	Equipment and Supplies
390.2220	Sterilization of Supplies and Equipment
390.2230	

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section	Codes
390.2410	Water Supply
390.2420	Sewage Disposal
390.2430	Plumbing
390.2440	

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section	Applicability of these Standards
390.2610	Codes and Standards
390.2620	Preparation of Drawings and Specifications
390.2630	Site
390.2640	Administration and Public Areas
390.2650	Nursing Unit
390.2660	Dining, Play, Activity/Program Rooms
390.2670	Therapy and Personal Care
390.2680	Service Departments
390.2690	General Building Requirements
390.2700	Structural
390.2710	Mechanical Systems
390.2720	Plumbing Systems
390.2730	Electrical Systems
390.2740	

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

Section	Applicability
390.2910	Codes and Standards
390.2920	Preparation of Drawings and Specifications
390.2930	Site
390.2940	Administration and Public Areas
390.2950	

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1987; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14676, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19374, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective January 1, 2001.

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1987; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14676, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19374, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective January 1, 2001.

SUBPART D: RESIDENT'S RIGHTS

SUBPART D: RESIDENT'S RIGHTS

Section 390.3210 Nursing Unit

390.3270 Play, Dining, Activity/Program Rooms

390.3280 Treatment and Personal Care

390.3290 Service Department

390.3300 General Building Requirements

390.3010 Structural

390.3020 Mechanical Systems

390.3030 Plumbing Systems

390.3040 Electrical Requirements

Section 390.3210 General

390.3220 Medical and Personal Care Program

390.3230 Restraints

390.3240 Abuse and Neglect

390.3250 Communication and Visitation

390.3260 Residents' Funds

390.3270 Residents' Advisory Council

390.3280 Contract With Facility

390.3290 Private Right of Action

390.3300 Transfer or Discharge

390.3310 Complaint Procedures

390.3320 Confidentiality

390.3330 Facility Implementation

SUBPART E: DAY CARE PROGRAMS

SUBPART E: DAY CARE PROGRAMS

Section 390.3510 Day Care in Long-Term Care Facilities

APPENDIX A Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)

APPENDIX B Forms for Day Care in Long-Term Care Facilities

APPENDIX C Guidelines for the Use of Various Drugs

TABLE A Infant Feeding

TABLE B Daily Nutritional Requirements by Age Group

TABLE C Sound Transmissions Limitations

TABLE D Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age

TABLE E Sprinkler Requirements

TABLE F Heat Index Table/Apparent Temperature

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section 390.1020 Medical Services

a) General Medical Services

1) The facility shall have a written program of medical services

45).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

approved in writing by the medical advisory committee that reflects the philosophy of care provided, the policies relating to this, and the procedures for implementation of the services. The program shall include the entire complex of services provided by the facility and the arrangements to effect transfer to other facilities as promptly as needed. The written program of medical services shall be followed in the operation of the facility.

2) A medical advisory committee composed of at least a physician, administrator and the director of nursing shall be responsible for advising the administrator and the licensee on the overall medical management of the residents and the staff in the facility. If the facility employs a house physician, the physician shall be a member of this committee. The written program of medical services shall also include the structure and function of the medical advisory committee.

b) Medical Emergencies

1) The medical advisory committee shall develop policies and procedures to be followed during medical emergencies including, but not limited to, foreign body aspiration, poisoning, acute trauma (fractures, burns, and lacerations), cardiac arrest, acute coronary, acute cardiac failure, asthmatic or allergic reactions, acute convulsion, shock, diabetic coma, insulin shock, and acute respiratory distress.

2) The facility shall maintain in a suitable location the equipment necessary to be used during emergencies, including, but not limited to, a portable oxygen kit, including a face mask or cannula; an airway; and tongue blades.

3) At least one staff person shall be on duty at all times who has been properly trained to handle medical emergencies.

c) Communicable Disease Policies

1) The facility shall meet the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

2) The facility shall not knowingly admit a person with a communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, except as allowed in subsection (c)(4) of this Section. A resident who is suspected of or diagnosed as having any such disease shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility. ~~until isolation can be discontinued or the person can be transferred.~~

3) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. The facility shall also inform the Department of all incidents of scabies and other skin infections.

4) Admission of Persons with Communicable, Contagious, or Infectious Diseases

A) Persons with communicable, contagious, or infectious diseases may be admitted under the following conditions:

i) When a person's infectious condition is directly related to one or more chronic pressure sores, from which laboratory tests have proven the presence of a pathogenic organism. Such a person may be admitted if the facility is capable of implementing appropriate treatment and isolation techniques to avoid secondary spread of infection.

ii) When a person's condition is communicable, contagious, or infectious only through blood or other body fluid contact, such as hepatitis, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV) infection.

B) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious disease under subsection (c)(4)(A) of this Section. The notice to the Department shall include at least the date of the admission and the nature of the condition.

C) Written approval to admit or keep a person with other communicable, contagious or infectious diseases may be granted by the Department on an individual case basis. Such approval will depend upon the nature of the infectious condition or disease and the capability of the facility to provide proper care to the person and to safeguard the staff and other residents of the facility from the spread of primary and secondary infections.

d) Infection Control

1) Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. A group, either an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code. Activities shall be monitored to ensure that these policies and procedures are followed.

2) Each facility shall adhere to the recommendations of the U.S. Public Health Service contained in the publication entitled "Guidelines for the Prevention and Control of Nosocomial

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Infections". This publication may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Services, Department of Health and Human Services, Atlanta, Georgia 30333. This publication includes the following guidelines:

- A) "Guidelines for Prevention of Catheter-Associated Urinary Tract Infections" (February 1, October 1981).
- B) "Guidelines for Handwashing and Hospital Environmental Control" (January 1, 1985).
- C) "Guidelines for Prevention of Intravascular Infections" (August 1, October 1981).
- D) "Guideline for Prevention of Surgical Wound Infections" (March 1982, Revised 1985).
- E) "Guideline for Prevention of Nosocomial Pneumonia" (January 3, 1987 February 1994).
- F) "Guideline for Isolation Precautions in Hospitals" (January 1, 1996).
- G) "Guideline for Infection Control in Hospital Personnel" (July 1, 1983).

(Source: Amended at 25 Ill. Reg. 4680, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3) Section Numbers: Adopted Action:
Amendment
330.1130
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of Amendment: April 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal was Published in Illinois Register: September 1, 2000
- 24 Ill. Reg. 13300

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In the Table of Contents, "Repealed" was added after "330.290 Quarterly List of Violators".
2. In the Table of Contents, "330.1340 Volunteer Program" was added after "330.1330. . Services".
3. In the Source Note, "25 Ill. Reg. _____, effective _____" was added.
5. In Section 330.1130(b), "authorized" was changed to "necessary".
6. In the Section Source Note, "24" was changed to "25".

The following changes were made in response to comments and suggestions of the JCAR: No changes were requested by JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were needed.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of the Amendment: Section 330.1130 is being amended to clarify that the involuntary transfer and discharge of a resident who has a communicable, contagious, or infectious disease must be in compliance with Article III, Part 4 of the Nursing Home Care Act.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Paul Thompson
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@dph.state.il.us

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE
SUBPART A: GENERAL PROVISIONS

General Requirements	Section 330.110	Warning	330.272
Application for License	330.120	Determination of the Level of a Violation	330.274
Licensee	330.130	Notice of Violation	330.276
Issuance of an Initial License For a New Facility	330.140	Administrative Warning	330.277
Issuance of an Initial License Due to a Change of Ownership	330.150	Plans of Correction	330.278
Issuance of a Renewal License	330.160	Reports of Correction	330.280
Alzheimer's Special Care Disclosure	330.163	Conditions for Assessment of Penalties	330.282
Criteria for Adverse Licensee Actions	330.165	Calculation of Penalties	330.284
Denial of Initial License	330.170	Determination to Assess Penalties	330.286
Denial of Renewal of License	330.175	Reduction or Waiver of Penalties	330.288
Revocation of License	330.180	Quarterly List of Violators (Repealed)	330.290
Experimental Program Conflicting With Requirements	330.190	Alcoholism Treatment Programs In Long-Term Care Facilities	330.300
Inspections, Surveys, Evaluations and Consultation	330.200	Department May Survey Facilities Formerly Licensed	330.310
Filing an Annual Attested Financial Statement	330.210	Supported Congregate Living Arrangement Demonstration	330.315
Information to be Made Available to the Public By the Department	330.220	Waivers	330.320
Information to be Made Available to the Public By the Licensee	330.230	Definitions	330.330
Municipal Licensing	330.240		
Ownership Disclosure	330.250		
Issuance of Conditional Licenses	330.260		
Monitoring and Receivership	330.270		
Presentation of Findings	330.271		
Determination to Issue a Notice of Violation or Administrative	330.272		

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

330.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
330.510 Administrator

SUBPART C: POLICIES

Section
330.710 Resident Care Policies
330.720 Admission and Discharge Policies
330.730 Contract Between Resident and Facility
330.740 Residents' Advisory Council
330.750 General Policies
330.760 Personnel Policies
330.765 Initial Health Evaluation for Employees
330.770 Disaster Preparedness
330.780 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
330.910 Personnel
330.911 Health Care Worker Background Check
330.913 Nursing and Personal Care Assistants (Repealed)
330.916 Student Interns (Repealed)
330.920 Consultation Services
330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section
330.1110 Medical Care Policies
330.1120 Personal Care
330.1125 Life Sustaining Treatments
330.1130 Communicable Disease Policies
330.1135 Tuberculin Skin Test Procedures
330.1140 Behavior Emergencies (Repealed)
330.1145 Restraints
330.1150 Emergency Use of Physical Restraints
330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs

SUBPART F: RESTORATIVE SERVICES

Section
330.1310 Activity Program
330.1320 Work Programs

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

330.1330 Written Policies for Restorative Services
330.1340 Volunteer Program

SUBPART G: MEDICATIONS

Section
330.1510 Medication Policies
330.1520 Administration of Medication
330.1530 Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
330.1710 Resident Record Requirements
330.1720 Content of Medical Records
330.1730 Records Pertaining to Residents' Property
330.1740 Retention and Transfer of Resident Records
330.1750 Other Resident Record Requirements
330.1760 Retention of Facility Records
330.1770 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
330.1910 Director of Food Services
330.1920 Dietary Staff in Addition to Director of Food Services
330.1930 Hygiene of Dietary Staff
330.1940 Diet Orders
330.1950 Meal Planning
330.1960 Therapeutic Diets (Repealed)
330.1970 Scheduling of Meals
330.1980 Menus and Food Records
330.1990 Food Preparation and Service
330.2000 Food Handling Sanitation
330.2010 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
330.2210 Maintenance
330.2220 Housekeeping
330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
330.2410 Furnishings
330.2420 Equipment and Supplies

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section	Codes
330.2610	Water Supply
330.2620	Water Supply
330.2630	Sewage Disposal
330.2640	Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW
SHELTERED CARE FACILITIES

Section	Applicable Requirements (Repealed)
330.2810	Applicability of These Standards
330.2820	Applicability of These Standards
330.2830	Submission of a Program Narrative
330.2840	New Constructions, Additions, Conversions, and Alterations
330.2850	Preparation and Submission of Drawings and Specifications
330.2860	First Stage Drawings
330.2870	Second Stage Drawings
330.2880	Architectural Drawings
330.2890	Structural Drawings
330.3000	Mechanical Drawings
330.3010	Electrical Drawings
330.3020	Additions to Existing Structures
330.3030	Specifications
330.3040	Building Codes
330.3050	Site
330.3060	General Building Requirements
330.3070	Administration
330.3080	Corridors
330.3090	Bath and Toilet Rooms
330.3100	Living, Dining, Activity Rooms
330.3110	Bedrooms
330.3120	Special Care Room
330.3130	Kitchen
330.3140	Laundry
330.3150	Housekeeping, Service, and Storage
330.3160	Plumbing
330.3170	Heating
330.3180	Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED
CARE FACILITIES

Section	Applicable Requirements (Repealed)
330.3310	Applicability of These Standards
330.3320	Fire Protection
330.3330	Fire Protection

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

Section	Fire Department Service and Water Supply
330.3340	General Building Requirements
330.3350	Exit Facilities and Subdivision of Floor Areas
330.3360	Stairways, Vertical Openings, and Doorways
330.3370	Corridors
330.3380	Exit Lights and Directional Signs
330.3390	Hazardous Areas and Combustible Storage
330.3400	Fire Alarm and Detection System
330.3410	Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3420	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills
330.3430	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR
EXISTING SHELTERED CARE FACILITIES

Section	Site
330.3610	General Building Requirements
330.3620	Administration
330.3630	Corridors
330.3640	Bath and Toilet Rooms
330.3650	Living, Dining, and Activity Rooms
330.3660	Bedrooms
330.3670	Special Care Room
330.3680	Kitchen
330.3690	Laundry Room
330.3700	Housekeeping and Service Rooms and Storage Space
330.3710	Plumbing and Heating
330.3720	Electrical
330.3730	Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING
SHELTERED CARE FACILITIES

Section	Fire Protection
330.3910	Fire Department Service and Water Supply
330.3920	Occupancy and Fire Areas
330.3930	Exit Facilities and Subdivision of Floor Areas
330.3940	Stairways, Vertical Openings, and Doorways
330.3950	Exit and Fire Escape Lights and Directional Signs
330.3960	Hazardous Areas and Combustible Storage
330.3970	Fire Alarm and Detection System
330.3980	Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3990	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills
330.4000	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

Section	General
330.4210	General

DEPARTMENT OF PUBLIC HEALTH

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

330.4220 Medical and Personal Care Program

330.4230 Restraints

330.4240 Abuse and Neglect

330.4250 Communication and Visitation

330.4260 Residents' Funds

330.4270 Residents' Advisory Council

330.4280 Contract With Facility

330.4290 Private Right of Action

330.4300 Transfer or Discharge

330.4310 Complaint Procedure

330.4320 Confidentiality

330.4330 Facility Implementation

SUBPART B: DAY CARE PROGRAMS

Section

330.4510 Day Care In Long-Term Care Facilities

APPENDIX A

Interpretation, Components, and Illustrative Services for

Sheltered Care Facilities (Repealed)

APPENDIX B

Classification of Distinct Part of a Facility For Different

Levels of Service (Repealed)

APPENDIX C

Forms for Day Care in Long-Term Care Facilities

APPENDIX D

Criteria for Activity Directors Who Need Only Minimal

APPENDIX E

Guidelines for the Use of Various Drugs

TABLE A

Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act (210 ILCS

45).

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 307, effective March 1,

1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective

July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6

Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547,

effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November

15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7

Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15823, effective

November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984;

amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill.

Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended

at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952,

effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1,

1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12

Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16670,

effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective

October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989;

amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg.

19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective

October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991;

amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg.

14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405,

effective February 3, 1993, for a maximum of 150 days; emergency expired on

July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993,

for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17

Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180,

effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26,

1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17

Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475,

effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October

15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency

amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150

days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125,

effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10,

1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22

Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594,

effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective January

15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24

Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg.

4901, effective July 1, 2001.

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section 330.1130 Communicable Disease Policies

a) The facility shall meet the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

b) The facility shall not knowingly admit a person with a communicable, contagious, or infectious disease, as defined in the Control of Communicable Diseases Code. A resident who is suspected of or diagnosed as having any such disease shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code until ~~isolation can be discontinued or the person can be transferred.~~ If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article II, Part 4 of the Act. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall also inform the Department of all incidents of scabies and other skin infestations.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 25 Ill. Reg. 4901, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Numbers: Adopted Action:
300.1020 Amendment
- 4) Statutory Authority: Nursing Home Care Act (210 ILCS 4-1)
- 5) Effective date of amendments: April 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal was Published in Illinois Register: September 1, 2000
- 24 Ill. Reg. 13309
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version:
The following changes were made in response to comments received during the first notice or public comment period:
1. In the Table of Contents, "(Repealed)" was added after "300.290 Quarterly List of Violators."
 2. In the Table of Contents, "300.662 Resident Attendants" was added.
 3. In the Table of Contents, Section 300.663, "Nurse Aides" was changed to "Nursing Assistants".
 4. In the Table of Contents, "300.1440 Volunteer Program" was added.
 5. In the Table of Contents, "(Repealed)" was added after "Appendix E ... Consultation."
 6. In the Source Note, "17330" and "November 1, 2000; amended at 25 Ill. Reg. 4911, effective _____," were added.
 7. Section 300.663 was removed from the rulemaking.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

8. In Section 300.1020(b), "authorized" was changed to "necessary".
 9. In Section 300.1020(e)(2)(A), "October" was stricken and "February 11" was added.
 10. In Section 300.1020(e)(2)(B), "January 11" was added.
 11. In Section 300.1020(e)(2)(C), "October 1981" was stricken and "August 11, 1991" was added.
 12. In Section 300.1020(e)(2)(E), "February 1994" was stricken and "January 3, 1997" was added.
 13. In Section 300.1020(e)(2)(F), "11" was added.
 14. In Section 300.1020(e)(2)(G), "11" was added.
 15. In the Section source note, "24" was changed to "25".
- The following changes were made in response to comments and suggestions of the JCAR: No changes were requested.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued.

- 13) Will this amendment replace an emergency amendment currently in effect? No

- 14) Are there any other amendments pending on this Part? No

- 15) Summary and Purpose of the amendment: Section 300.1020 (Communicable Disease Policies) is being amended to clarify that the involuntary transfer and discharge of a resident who has a communicable, contagious, or infectious disease must be in compliance with Article III, Part 4 of the Nursing Home Care Act.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Paul Thompson
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@dpu.state.il.us

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	General Requirements
300.110	Application for License
300.120	Licenses
300.130	Issuance of an Initial License for a New Facility
300.140	Issuance of an Initial License Due to a Change of Ownership
300.150	Issuance of a Renewal License
300.160	Alzheimer's Special Care Disclosure
300.163	Criteria for Adverse Licensure Actions
300.165	Denial of Initial License
300.170	Denial of Renewal of License
300.175	Revocation of License
300.180	Experimental Program Conflicting With Requirements
300.190	Inspections, Surveys, Evaluations and Consultation
300.200	Filing an Annual Attested Financial Statement
300.210	Information to Be Made Available to the Public By the Department
300.220	Information to Be Made Available to the Public By the Licensee
300.230	Municipal Licensing
300.240	Ownership Disclosure
300.250	Issuance of Conditional Licenses
300.260	Monitor and Receivership
300.270	Presentation of Findings
300.271	Determination to Issue a Notice of Violation or Administrative Warning
300.272	Determination of the Level of a Violation
300.274	Notice of Violation
300.276	Administrative Warning
300.277	Plans of Correction
300.278	Reports of Correction
300.280	Conditions for Assessment of Penalties
300.282	Calculation of Penalties
300.284	Determination to Assess Penalties
300.286	Reduction or Waiver of Penalties
300.288	Quarterly List of Violators (Repealed)
300.290	Alcoholism Treatment Programs In Long-Term Care Facilities
300.300	Department May Survey Facilities Formerly Licensed
300.310	Supported Congregate Living Arrangement Demonstration
300.315	Waivers
300.320	Definitions
300.330	

DEPARTMENT OF PUBLIC HEALTH

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

300.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
300.510

Administrator

SUBPART C: POLICIES

Section

300.610 Resident Care Policies
 300.615 Determination of Need Screening
 300.620 Admission and Discharge Policies
 300.630 Contract Between Resident and Facility
 300.640 Residents' Advisory Council
 300.650 Personnel Policies
 300.655 Initial Health Evaluation for Employees
 300.660 Nursing Assistants
 300.661 Health Care Worker Background Check
 300.662 Resident Attendants
 300.663 Registry of Certified Nursing Assistants
 300.665 Student Interns
 300.670 Disaster Preparedness
 300.680 Restraints
 300.682 Nonemergency Use of Physical Restraints
 300.684 Emergency Use of Physical Restraints
 300.686 Unnecessary, Psychotropic, and Antipsychotic Drugs
 300.690 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section

300.810 General
 300.820 Categories of Personnel
 300.830 Consultation Services
 300.840 Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section

300.1010 Medical Care Policies
 300.1020 Communicable Disease Policies
 300.1025 Tuberculin Skin Test Procedures
 300.1030 Medical Emergencies
 300.1035 Life-Sustaining Treatments
 300.1040 Behavior Emergencies (Repealed)
 300.1050 Dental Standards

Section
300.1210
300.1220
300.1230
300.1240

General Requirements for Nursing and Personal Care
 Supervision of Nursing Services
 Staffing
 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section

300.1410 Activity Program
 300.1420 Specialized Rehabilitation Services
 300.1430 Work Programs
 300.1440 Volunteer Program

SUBPART H: MEDICATIONS

Section

300.1610 Medication Policies and Procedures
 300.1620 Conformance With Physician's Orders
 300.1630 Administration of Medication
 300.1640 Labelling and Storage of Medications
 300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section

300.1810 Resident Record Requirements
 300.1820 Content of Medical Records
 300.1830 Records Pertaining to Residents' Property
 300.1840 Retention and Transfer of Resident Records
 300.1850 Other Resident Record Requirements
 300.1860 Staff Responsibility for Medical Records
 300.1870 Retention of Facility Records
 300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section

300.2010 Director of Food Services
 300.2020 Dietary Staff in Addition to Director of Food Services
 300.2030 Hygiene of Dietary Staff
 300.2040 Diet Orders
 300.2050 Meal Planning
 300.2060 Therapeutic Diets (Repealed)
 300.2070 Scheduling Meals
 300.2080 Menus and Food Records

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

300.2090 Food Preparation and Service
 300.2100 Food Handling Sanitation
 300.2110 Kitchen Equipment, Utensils, and Supplies

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section

300.2210 Maintenance
 300.2220 Housekeeping
 300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

300.2410 Furnishings
 300.2420 Equipment and Supplies
 300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section

300.2610 Codes
 300.2620 Water Supply
 300.2630 Sewage Disposal
 300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS

FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

300.2810 Applicability of These Standards
 300.2820 Codes and Standards
 300.2830 Preparation of Drawings and Specifications
 300.2840 Site
 300.2850 Administration and Public Areas
 300.2860 Nursing Unit
 300.2870 Dining, Living, Activities Rooms
 300.2880 Therapy and Personal Care
 300.2890 Service Departments
 300.2900 General Building Requirements
 300.2910 Structural
 300.2920 Mechanical Systems
 300.2930 Plumbing Systems
 300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS

FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
 300.3010 Applicability
 300.3020 Codes and Standards
 300.3030 Preparation of Drawings and Specifications
 300.3040 Site
 300.3050 Administration and Public Areas
 300.3060 Nursing Unit
 300.3070 Living, Dining, Activities Rooms
 300.3080 Treatment and Personal Care
 300.3090 Service Departments
 300.3100 General Building Requirements
 300.3110 Structural
 300.3120 Mechanical Systems
 300.3130 Plumbing Systems
 300.3140 Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

Section

300.3210 Criminal
 300.3220 Medical and Personal Care Program
 300.3230 Restraints
 300.3240 Abuse and Neglect
 300.3250 Communication and Visitation
 300.3260 Resident's Funds
 300.3270 Residents' Advisory Council
 300.3280 Contract With Facility
 300.3290 Private Right of Action
 300.3300 Transfer or Discharge
 300.3310 Complaint Procedures
 300.3320 Confidentiality
 300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

Section

300.3410 Application of Other Divisions of These Minimum Standards
 300.3420 Administrator
 300.3430 Policies
 300.3440 Personnel
 300.3450 Resident Living Services Medical and Dental Care
 300.3460 Resident Services Program
 300.3470 Psychological Services
 300.3480 Social Services
 300.3490 Recreational and Activities Services
 300.3500 Individual Treatment Plan
 300.3510 Health Services
 300.3520 Medical Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24568, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1984; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; amended at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 534, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21059, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996 for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12206, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section 300.1020 Communicable Disease Policies

- a) The facility shall meet the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).
- b) A resident who is suspected of or diagnosed as having any

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Dental Services
300.3650 Audiometric Services
300.3651 Radiographic Services
300.3570 Occupational Therapy Services
300.3580 Nursing and Personal Care
300.3590 Resident Care Services
300.3610 Record Keeping
300.3610 Food Service
300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities)
300.3630 Design and Construction Standards (New and Existing Facilities)

SUBPART R: NANCARE PROGRAMS

300.3630 Long-Term Care Facilities

Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities (Repealed)
Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
Federal Requirements Regarding Patients'/Residents' Rights (Repealed)
Forms for Day Care in Long-Term Care Facilities
Criteria for Activity Directors Who Need Only Minimal Observation (Repealed)
Guidelines for the Use of Various Drugs
Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
Pressure Ulcer Wounds and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
Index Table: Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS

300. Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1982, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective March 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective November 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 1, 1984; amended at 6 Ill. Reg. 14684, effective November 15, 1984; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972,

DEPARTMENT OF PUBLIC HEALTH

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code until isolation can be discontinued or the person can be transferred. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall inform the Department of all incidents of scabies and other skin infestations.

d) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious disease. The notice to the Department shall include at least the date of the admission and the nature of the condition.

e) Infection control responsibilities:

- 1) Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. A group, either an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code. Activities shall be monitored to ensure that these policies and procedures are followed.

- 2) Each facility shall adhere to the recommendations of the U.S. Public Health Service contained in the publication entitled "Guidelines for the Prevention and Control of Nosocomial Infection." This publication may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333. This publication includes the following guidelines:

- A) "Guideline for Prevention of Catheter-Associated Urinary Tract Infections" (February 1, October 1981).
- B) "Guideline for Handwashing and Hospital Environmental Control" (January 1, 1985).
- C) "Guideline for Prevention of Intravascular Infections" (August 1, 1991 October 1984).
- D) "Guideline for Prevention of Surgical Wound Infections" (March 1987, Revised 1985).

- E) "Guideline for Prevention of Nosocomial Pneumonia" (January 3, 1997 February 1994).
- F) "Guideline for Isolation Precautions in Hospitals" (January 1, 1996).
- G) "Guideline for Infection Control in Hospital Personnel" (July 1, 1983).

(Source: Amended at 25 Ill. Reg. 100.2, effective

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: County Motor Fuel Tax

2) Code Citation: 86 Ill. Adm. Code 695

3) Section Numbers: Adopted Action:
 695.101 New Section
 695.105 New Section
 695.110 New Section
 695.115 New Section
 695.120 New Section
 695.125 New Section
 695.130 New Section

1) Statutory Authority: 55 ILCS 5/5-1035

5) Effective Date of Amendments: March 23, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 11/17/00, 24 Ill. Reg. 16950

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect?
 No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking implements the County Motor Fuel Tax Law, 55 ILCS 5/5-1035.1, which authorizes the counties of DuPage, Kane, and McHenry to impose a tax upon all persons engaged in the business of selling motor fuel, and includes provisions concerning the nature of the tax, registration and returns, and claims.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted amendments shall be directed to:

Gina Roccaforte
 Illinois Department of Revenue
 Legal Services Office
 101 West Jefferson
 Springfield, Illinois 62794
 (217) 782-6996

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUEPART 695
COUNTY MOTOR FUEL TAX

Section	Nature of the County Motor Fuel Tax
695.101	Registration and Returns
695.105	Claims to Recover Wrongfully Paid Tax
695.110	Jurisdictional Questions
695.115	Incorporation of Retailers' Occupation Tax Regulations by Reference
695.120	Penalties, Interest and Procedures
695.125	Effective date
695.130	

AUTHORITY: Implementing the County Motor Fuel Tax Law [55 ILCS 5/5-1035.1] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-95].

SOURCE: Adopted at 25 Ill. Reg. 49 2 2 —, effective

Section 695.101 Nature of the County Motor Fuel Tax

- a) Authority to Impose Tax
- Under the County Motor Fuel Tax Law ("Law") [55 ILCS 5/5-1035.1] the county board of the counties of DuPage, Kane and McHenry may, by ordinance or resolution adopted by the affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law [35 ILCS 505], at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. If imposed, such tax shall only be imposed in half-cent increments, at a rate not exceeding 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and rights-of-way for public highways and waterways within the county imposing the tax. The County Motor Fuel Tax imposed under the County Motor Fuel Tax Law is an occupation tax upon retailers of motor fuel and is administered by the Illinois Department of Revenue ("Department") in the same manner as the Retailers' Occupation Tax. The tax imposed by a county board under the County Motor Fuel Tax Law and this Part, and all civil penalties that may be assessed as an incident thereof, shall be collected and enforced by the Department.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

b) Passing on the Tax

The legal incidence of the County Motor Fuel Tax Law is on the seller. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the County Motor Fuel Tax Law to reimburse themselves for their County Motor Fuel Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act [35 ILCS 105], pursuant to such bracket schedules as the Department has prescribed (see 86 Ill. Adm. Code 150-Table A).

c) Exclusion from "Gross Receipts"

Any amount added to the selling price of motor fuel by the seller because of a County Motor Fuel Tax, or because of the Illinois Retailers' Occupation Tax [35 ILCS 120], the Illinois Use Tax [35 ILCS 105], or any local occupation or use tax administered by the Department and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such County Motor Fuel Tax.

Section 695.105 Registration and Returns

a) Separate Registration Not Required

A retailer's registration under the Illinois Retailers' Occupation Tax Act [35 ILCS 120] is sufficient for the County Motor Fuel Tax Law. No special registration for the County Motor Fuel Tax Law is required.

b) Requirements as to Returns

- 1) The information required for the County Motor Fuel Tax Law shall be furnished on the return form prescribed by the Department.
- 2) On or before the twentieth day of each calendar month, every person engaged in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law [35 ILCS 505], at retail in the counties of DuPage, Kane or McHenry for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways during the preceding calendar month shall file a return with the Department for such preceding month, stating the name of the seller; the address of his principal place of business, the address of the principal place of business (if that is a different address) from which he is engaged in the business of selling such motor fuel at retail; total gallons of motor fuel sold; deductions allowed by law; and amount of tax due.
- 3) If the retailer files his Illinois Retailers' Occupation Tax returns on the gross receipts basis, he must report County Motor Fuel Tax information in his returns on the same basis. If the retailer files his Illinois Retailers' Occupation Tax returns on the gross sales basis, he must report County Motor Fuel Tax information in his returns on the gross sales basis.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section 695.110 Claims to Recover Erroneously Paid Tax

Claims for Multiple Taxes. If a claimant files a claim for refund on a transaction which was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued that may be used by the claimant or his authorized assignee to pay State or local tax liability as authorized in 86 Ill. Adm. Code 130.1505(b)(1).

Section 695.115 Jurisdictional Questions

- a) County Defined
When used in this Part, "county" means any one of the counties of DuPage, Kane or McHenry authorized under the County Motor Fuel Tax Law [55 ICSC 5/5-1035.1] to impose a County Motor Fuel Tax.
- b) Mere Solicitation of Orders Not Doing Business
 - 1) For a seller to incur County Motor Fuel Tax liability in a given county, the sale must be made in the course of such seller's engaging in the retail business within such county. In other words, enough of the selling activity must occur within the county to justify concluding that the seller is engaged in business within the county with respect to that sale.
 - 2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to the county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.
- c) Seller's Acceptance of Order
 - 1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the county or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the county or by someone

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

working out of such place of business, the seller incurs County Motor Fuel Tax liability in that county if the sale is at retail and the purchaser receives the physical possession of the motor fuel in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.

- 2) If a purchase order is accepted outside the county, but the motor fuel that is sold is in an inventory of the retailer located within the county at the time of its sale (or is subsequently produced in the county), then delivered in Illinois to the purchaser, the place where the motor fuel is located at the time of the sale (or subsequent production in the county) will determine where the seller is engaged in business for County Motor Fuel Tax purposes with respect to such sale.

- d) Some Considerations that are Not Controlling
 - 1) Delivery of the motor fuel within the county to the purchaser is not necessary for the seller to incur County Motor Fuel Tax liability. It is sufficient that the purchaser receives the physical possession of the motor fuel somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for interstate commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the county for the seller to be regarded as being engaged in the business of selling within such county with respect to that sale.
 - 2) The point at which the motor fuel will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether the seller incurs County Motor Fuel Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the county" in the County Motor Fuel Tax Law refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company vs. Department of Finance et al., 383 Ill. 136 (1943), for a similar problem under the Illinois Retailers' Occupation Tax Act.)
- e) Place of Business Where Long Term or Blanket Contracts are Involved
Under a long term blanket or master contract that (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for County Motor Fuel Tax purposes with respect to such orders.
- f) Sales from Vehicles Carrying Uncommitted Stock of Goods
The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

orders, but actual sales and deliveries) from a vehicle in which motor fuel is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such motor fuel.

Section 695.120 Incorporation of Retailers' Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130) that are not incompatible with the County Motor Fuel Tax Law or any special regulations that may be promulgated by the Department under the Law shall apply to the tax imposed pursuant to this Part.

Section 695.125 Penalties, Interest and Procedures

All penalties (both civil and criminal), provisions concerning interest, and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the County Motor Fuel Tax Law as under the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and the Uniform Penalty and Interest Act [35 ILCS 735].

Section 695.130 Effective Date

An ordinance or resolution imposing a County Motor Fuel Tax or effecting a change in the rate thereof shall be effective on the first day of the second calendar month next following the month in which the ordinance or resolution is adopted and a certified copy thereof is filed with the Department, whereupon the Department shall proceed to administer and enforce the ordinance or resolution on behalf of the county as of the effective date of the ordinance or resolution. Upon a change in the rate of tax or upon the discontinuance of the tax, the county board of the county shall, on or not later than 5 days after the effective date of the ordinance or resolution discontinuing the tax or effecting a change in rate, transmit to the Department a certified copy of the ordinance or resolution effecting the change or discontinuance (Section 5-1035.1 of the Law). For purposes of determining which tax rate applies, the date of the sale is deemed to be the date of the delivery of the property.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers:
100-5040 New Section
100-5250 Amendment
100-9000 Amendment
100-9100 Amendment
- 4) Statutory Authority: 35 ILCS 5/502(c)(4) and 35 ILCS 5/1401(a)
- 5) Effective Date of Amendment(s): March 15, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: 11/03/01, 24 Ill. Reg. 16218; 11/13/01, 24 Ill. Reg. 16555

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
100-5130	Amendment	12/01/00, 24 Ill. Reg. 17496
100-2590	Amendment	02/09/01, 25 Ill. Reg. 2294
100-3120	Amendment	02/09/01, 25 Ill. Reg. 2294
100-7010	Amendment	02/09/01, 25 Ill. Reg. 2294
100-9720	New Section	03/02/01, 25 Ill. Reg. 3211

15) Summary and Purpose of Amendments: The amendments to Section 100.5040 implement Section 502(c)(4) of the Illinois Income Tax Act [35 ILCS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

5/502(c)(4)] created in Public Act 91-541. Section 502(c)(4) provides for innocent spouse relief for tax liabilities upon proper election and demonstration of innocent spouse status.

The amendments to Sections 100.5250, 100.9000 and 100.9100 correct references to the Uniform Penalty and Interest Act to reflect amendments to that Act.

JCAR corrections were made to the subpart header that precedes Section 100.2680.

16) Information and questions regarding this adopted amendment shall be directed to:

Dana Kinion, Income Tax - Associate Counsel
Heidi Scott, Income Tax - Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-7055

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section	Introduction
100.2000	
100.2050	Net Income (IITA Section 702)

SUBPART B: CREDITS

Section	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2100	
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit: Enterprise Zone (IITA 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA 201(k))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope
100.2210	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Definitions
100.2220	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Current Net Operating Losses: Offsets Between Members
100.2230	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Carrybacks and Carryforwards

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income

100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER

DECEMBER 31, 1986

Section
100.2300 Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986

100.2310 Computation of the Illinois Net Loss Deduction

100.2320 Determination of the Amount of Illinois Net Loss Carryovers

100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring on or After December 31, 1986

100.2340 Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

100.2350 Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES (Repeated)

Section

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repeated)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section
100.3000 Terms Used in Article 3 (IITA Section 301)

100.3010 Business and Nonbusiness Income (IITA Section 301)

100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section
100.3100 Compensation (IITA Section 302)

100.3110 State (IITA Section 302)

100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)

100.3210 Commercial Domicile (IITA Section 303)

100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)

100.3310 Business Income of Persons Other than Residents (IITA Section 304) - In General

100.3320 Business Income of Persons Other Than Residents (IITA Section 304) - Apportionment

100.3330 Business Income of Persons Other Than Residents (IITA Section 304) - Allocation

100.3340 Business Income of Persons Other Than Residents (IITA Section 304)

100.3350 Property Factor (IITA Section 304)

100.3360 Payroll Factor (IITA Section 304)

100.3370 Sales Factor (IITA Section 304)

100.3380 Special Rules (IITA Section 304)

100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section
100.5000 Time for Filing Returns: Individuals (IITA Section 505)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
 100.5040 Innocent Spouses

SUBPART O: COMPOSITE RETURNS

Section
 100.5100 Composite Returns: Eligibility
 100.5110 Composite Returns: Responsibilities of Authorized Agent
 100.5120 Composite Returns: Individual Liability
 100.5130 Composite Returns: Required forms and computation of Income
 100.5140 Composite Returns: Estimated Payments
 100.5150 Composite Returns: Tax, Penalties and Interest
 100.5160 Composite Returns: Credit for Resident Individuals
 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section
 100.5200 Filing of Combined Returns
 100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
 100.5205 Election to File a Combined Return
 100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
 100.5220 Designated Agent for the Members
 100.5230 Combined Estimated Tax Payments
 100.5240 Claims for Credit of Overpayments
 100.5250 Liability for Combined Tax, Penalty and Interest
 100.5260 Combined Amended Returns
 100.5265 Common Taxable Year
 100.5270 Computation of Combined Net Income and Tax
 100.5280 Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITH HOLDING

Section
 100.7000 Requirement of Withholding (IITA Section 701)
 100.7010 Compensation Paid in this State (IITA Section 701)
 100.7020 Transacting Business Within this State (IITA Section 701)
 100.7030 Payments to Residents (IITA Section 701)
 100.7040 Employer Registration (IITA Section 701)
 100.7050 Computation of Amount withheld (IITA Section 701)
 100.7060 Additional Withholding (IITA Section 701)
 100.7070 Voluntary Withholding (IITA Section 701)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
 100.7090 Reciprocal Agreement (IITA Section 701)
 100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section
 100.7100 Withholding Exemption (IITA Section 702)
 100.7110 Withholding Exemption Certificate (IITA Section 702)
 100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section
 100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
 100.7300 Returns of Income Withheld from Wages (IITA Section 704)
 100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)
 100.7320 Time for Filing Returns (IITA Section 704)
 100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section
 100.9000 General Income Tax Procedures (IITA Section 901)
 100.9010 Collection Authority (IITA Section 901)
 100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section
 100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
 100.9200 Assessment (IITA Section 903)
 100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section
 100.9300 Deficiencies and Overpayments (IITA Section 904)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
 100.9400 Limitations on Notices of Deficiency (IITA Section 905)
 100.9410 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section
 100.9400 Credits and Refunds (IITA Section 909)
 100.9410 Limitations on Claims for Refund (IITA Section 911)
 100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
 100.9500 Access to Books and Records (IITA Section 913)
 100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913) (Repealed)
 100.9510 Taxpayer Representation and Practice Requirements
 100.9520 Conduct of Investigations and Hearings

SUBPART AA: JUDICIAL REVIEW

Section
 100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section
 100.9700 Unitary Business Group Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section
 100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents
 TABLE A Example of Unitary Business Apportionment
 TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 613, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 3537,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 9, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; reclassified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2367, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 4929, effective 4/1/01.

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES (Repealed)

Section 100.2680 Capital Gain Income of Estates and Trusts Paid to or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Permanently Set Aside for Charity (Repealed)

(Source: Repealed at 24 Ill. Reg. 10593, effective July 7, 2000)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section 100-5040 Innocent Spouses

- a) Spouses who file a joint return for a taxable year are each liable for the entire tax liability of the couple, regardless of which spouse earned the income reportable on the return. (See IITA Section 502(c).) However, spouses may be entitled to relief from some or all of a joint return liability under the Innocent Spouse provision in IITA Section 502(c)(4). An election under this Section to obtain such relief applies to every year for which a joint return was filed involving the same two individuals listed in the election.
- b) For tax liabilities arising and paid prior to August 13, 1999, a spouse shall, with respect to any taxable year to which the election applies, be relieved from liability for any Illinois tax, penalties, additions to tax, interest, or other amounts, to the same extent as the relief provided by the Internal Revenue Service under a Section 6013(e) determination. If there is no federal income tax liability at issue, a spouse shall be relieved from liability for any Illinois tax, penalties, additions to tax, interest, or other amounts, if:
 - 1) a joint return was filed for such taxable year;
 - 2) the amount of understatement of tax exceeds \$500 and is attributable to an omission by such person's spouse;
 - 3) the spouse did not know of, and had no reason to know of, such omission at the time of signing the return; and
 - 4) it is unfair to hold the spouse liable for the deficiency in tax for such omission.
- c) For tax liabilities arising after August 13, 1999, or which arose prior to but remain unpaid as of August 13, 1999, any individual who makes an election under this Section shall be liable only for the amount of Illinois income tax that does not exceed the individual's separate return amount for that taxable year and the individual's liability for any deficiency assessed for that taxable year shall not exceed the portion of the deficiency properly allocable to the individual. (IITA Section 502(c)(4)(B))
- d) Making the Election. There are two ways that an individual may elect the protection of the innocent spouse provision according to IITA Section 502(c)(4):
 - 1) An individual who submits proof of an election made pursuant to Section 6015 of the Internal Revenue Code (by sending a copy of Form 9857 to the Department) automatically elects the innocent spouse provision (i.e., IITA 502(c)(4)). Any determination made under Section 6015 with respect to the validity of the innocent spouse election and/or the individual's separate return amount of

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

portion of any deficiency attributable to the individual is conclusively presumed to be correct.

- 2) If no election has been made under Internal Revenue Code Section 6015, an innocent spouse must file Form IL-8857 and meet the following conditions:
 - A) the joint return filed for the taxable year has an understatement of tax due to erroneous items of the spouse and not seeking relief under this Section; and
 - B) the spouse seeking relief under this Section had no actual knowledge of, and had no reason to know of, such understatement of tax at the time of signing the joint return; and
 - C) no assets have been transferred between the spouses as part of a scheme by such individuals to avoid payment of Illinois income tax.
- e) Limitations on the Innocent Spouses Election. There is no limitations period for making an innocent spouse election. However, any claim for refund of taxes paid by a spouse making the election must be filed within the applicable period for filing a claim for refund of income taxes.
- f) Burden of Proof. The individual seeking relief has the burden of proof with respect to all matters, except that the Department has the burden of proof with respect to disputes regarding a spouse's knowledge of an erroneous item under subsection (d)(2)(B) of this Section or the existence of a scheme to avoid payment of tax under subsection (d)(2)(C) of this Section.
- g) Collection Action. Receipt by the Department of proof of an election under the Internal Revenue Code Section 6015 or the filing of Form IL-8857 will only terminate Department collection activity against the spouse seeking relief; assessments will continue against both spouses. Collection activity will cease until a notice is sent to the electing spouse:
 - 1) stating that the election is invalid; or
 - 2) identifying the portion of tax liability that has been allocated to the electing spouse.
- h) Written Protests. An electing spouse who receives a notice stating either that the election is invalid or that the relief granted is less than the relief the electing spouse believes is warranted may file a written protest to the notice within 60 days (or 150 days if outside the United States) from the date of the notice. If a written protest is filed, the electing spouse will be granted a hearing according to IITA Section 908. Further administrative review shall be allowed in accordance with IITA Section 1201. Once the Department is in receipt of a written protest that is properly filed, no collection action shall be taken by the Department until the decision regarding the protest becomes final under Section 908(d), or if administrative review of the Department's decision is requested under Section 1201, until the decision of the court becomes final. Assessment is not

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

affected by the filing of a written protest.

- 1) Claims in addition to the Innocent Spouse Provision. Alternative grounds for the individual's claim of reduced liability or no liability shall be consolidated, if possible, with the election of the innocent spouse provision and any outstanding Notice of Deficiencies in order to enhance administrative efficiency.

2) Definitions.

1) "Separate return amount" means an amount equal to the excess (if any) of:

A) the tax liability of the individual based on the items shown on the joint return for the taxable year, if the individual has filed a separate return, over

B) the aggregate payments of such tax properly allocable to such individual. In determining the tax liability that the individual would have incurred had he or she filed a separate return, any item of income, deduction, exemption credit, or payment that is not clearly allocable to either spouse shall be divided equally between the spouses. For example, interest earned on a joint bank account, the exemptions allowed for dependent children, the credit for property taxes paid with respect to the spouses' principal residence, and any payment of estimated tax made from a joint bank account will be divided equally between the spouses in the absence of evidence that such amounts should be allocated in a different manner.

2) For purposes of this Section, "deficiency" means the difference between the total amount of tax that should have been shown on the return and the amount of tax that was actually shown on the return. The portion of a deficiency properly allocable to an individual will be determined by allocating the erroneous items of income, deduction or credit whose correction generates the deficiency between the spouses in the same manner as would be used to allocate such items between the spouses for purposes of determining the separate return amounts for the spouses.

3) "Erroneous items" means any unreported income, incorrect deductions, or incorrect credits shown on a return.

(Source: Added at 25 Ill. Reg. 402.0 - effective 4/1/01.)

SUBPART P: COMBINED RETURNS

Section 100.5250 Liability for Combined Tax, Penalty and Interest

- a) Joint and several liability of members of a combined group. The members of a combined group shall be jointly and severally liable for the combined tax, penalty and interest computed in accordance with this Subpart P, as well as the Uniform Penalty and Interest Act

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

rules adopted pursuant to the UPIA at 86 Ill. Adm. Code 700.

- b) Effect of intercompany agreements. No agreement entered into by one or more members of a combined group with any other member of such group or with any other person shall in any case have the effect of reducing the liability prescribed under this Section.

c) Penalties. If a penalty is imposed under the IIPA and the UPIA with respect to a combined return year, the amount shall be based on the combined tax liability or deficiency for the common taxable year.

- 1) For purposes of applying the penalties for failure to file a return imposed by Section 3-(a), and Section 3-(a-5) and Section 3-3(a-10) of the Uniform Penalty and Interest Act (UPIA) [35 ILCS 735/3-3]:

A) A corporation which erroneously fails to join in the filing of a combined return, but which timely files a separate Illinois income tax return or joins in the timely filing of a combined return for another combined group, shall not be subject to any penalty. In determining whether such separate or combined return is timely filed, the separate taxable year of such corporation or the common taxable year of the combined group such corporation erroneously joined shall be used, rather than the common taxable year of the combined group with which such corporation should have filed.

B) A corporation which erroneously fails to join in the filing of a combined return, and which fails, without reasonable cause, to timely file a separate Illinois income tax return or to join in the timely filing of a combined return for another combined group, shall be subject to penalty computed on the amount of tax shown (or required to be shown) due on the combined return for its proper combined group. Because it is the duty of the designated agent, acting on behalf of the combined group, to include such corporation in the combined return, the members of the combined groups shall be jointly and severally liable for the penalty.

C) A corporation which erroneously joins in the timely filing of a combined return shall not be subject to penalty for failure to file a return.

- 2) For purposes of applying the penalty for failure to timely pay tax imposed by UPIA Section 3-(b), Section 3-3(b-5) and Section 3-3(b-10) [35 ILCS 735/3-3(b)]:

A) In a case where a corporation erroneously fails to join in the filing of a combined return for a common taxable year, neither that corporation nor the combined group shall be subject to any failure-to-pay penalty under UPIA Section 3-3(b)(1), Section 3-3(b-5)(1), or Section 3-3(b-10)(1) if timely payment is made of the tax shown on a separate return filed by such corporation or on a combined return in which it erroneously joins in filing for each taxable year ending

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

with or within such common taxable year. Unless there is reasonable cause for the failure of such corporation to join in the filing of the combined return, such corporation and the combined group may be jointly and severally liable for a penalty under UPIA Section 3-3(b)(2). Section 3-3(b-5)(2) or Section 2-3(b-10)(2) for failure to pay any additional amount which would have been shown on the combined return had such corporation been included.

- B) A corporation which erroneously fails to join in the filing of a combined return for a common taxable year and also fails to timely pay the tax shown on a separate return it files or on a combined return in which it joins in filing for each taxable year ending with or within such common taxable year shall be subject to penalty under UPIA Section 3-3(b)(1), Section 3-3(b-5)(1) or Section 3-3(b-10)(1) only for failure to pay the tax shown on the return it actually files or joins in filing. Unless there is reasonable cause for the failure of such corporation to join in the filing of the combined return, such corporation and the combined group may be jointly and severally liable for a penalty under UPIA Section 3-3(b)(2), Section 3-3(b-5)(2) or Section 2-3(b-10)(2) for failure to pay any additional amount which would have been shown on the combined return had such corporation been included.

- C) If a corporation erroneously joins in the filing of a combined return, neither such corporation nor the combined group shall be subject to penalty under UPIA Section 3-3(b)(2), Section 3-3(b-5)(2) or Section 3-3(b-10)(2) for failure to pay any tax required to be shown on a separate company return and the combined group shall not be subject to penalty under UPIA Section 3-3(b)(2), Section 3-3(b-5)(2) or Section 3-3(b-10)(2) for failure to pay any increase in tax resulting from the exclusion of such corporation from the combined group if the tax timely paid with the original combined return exceeds the total tax required to be shown on the correct returns.

- 3) For purposes of applying the negligence penalty imposed by UPIA Section 3-5 [35 ILCS 735/3-5] or the fraud penalty imposed by UPIA Section 3-6 [35 ILCS 735/3-6] in any case in which a corporation erroneously joins or fails to join in the filing of a combined return, the penalty may be imposed on any deficiency resulting from such error, without taking into account any overpayment which may have resulted from the error.

Example. Corporations A, B and C meet all the requirements of a unitary business group, except that Corporations A and B are financial organizations which cannot be included in the same unitary business group as Corporation C, a manufacturer. On a separate-return basis, Corporation A has an Illinois net loss of

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

\$500. Corporation B has Illinois net income of \$300 and Corporation C has Illinois net income of \$700. Corporations A and C file a combined return reporting combined Illinois net income of \$200, while Corporation B files a separate return reporting Illinois net income of \$300. On audit, the Department corrects the liabilities by combining Corporations A and B, which eliminates Corporation B's separate return income and entities them to a refund of the taxes paid by Corporation B, and by determining a separate return deficiency for Corporation C. If the combination of Corporations B and C on the original return was due to negligence or an intent to defraud, Corporation C will be subject to the applicable penalty on its entire deficiency without regard to the overpayment made by Corporation B.

- 4) For purposes of applying the penalty for failure to pay estimated taxes under IITA Section 804, see Section 100-5230 of this Part. Interest. If interest is imposed under the IITA, at the rate determined under the UPIA, with respect to a combined return year, the amount shall be based on the combined tax liability or deficiency for the common taxable year. For purposes of computing any combined overpayment or underpayment on which interest is imposed:

- 1) in a case in which one or more corporations erroneously failed to join in the filing of the combined return, all payments, credits and other amounts collected from such corporations which are properly attributable to the common taxable year shall be treated as having been paid by the combined group for such common taxable year; and

- 2) in a case where one or more corporations are erroneously included in a combined return, the designated agent may allocate to each such corporation some or all of the payments, credits and other amounts collected from the combined group which are properly attributable to the common taxable year, and all overpayments and underpayments for such corporations and the combined group will be computed in accordance with such allocation. The amount of estimated tax payments allocated to each such corporation pursuant to this subsection (d)(2) must be consistent with the amounts allocated to such corporation under Section 100-5230(a) and (g) of this Part.

(Source: Amended at 25 Ill. Reg. 4920.3, effective 1/1/80.)

SUBPART U: COLLECTION AUTHORITY

Section 100-9000 General Income Tax Procedures (IITA Section 901)

- a) Collection procedure. The Illinois income tax system basically is one of self-assessment. In general, each person or taxpayer liable for tax is required to file a prescribed form of return

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

showing the facts upon which tax liability may be determined and assessed; the taxpayer is required to compute the tax due on the return and make payment thereof on or before the due date for filing the return. If the taxpayer fails to pay all or any part of the tax when due, the Director, after assessment, issues to each person liable for any unpaid portion thereof, a notice and demand for payment at the place and time stated in the notice. The income tax is principally collected through withholding at the source or by payments of estimated tax required by law to be filed by certain individual and corporate taxpayers. Neither withholding nor payment of estimated tax relieves a taxpayer from the duty of filing an income tax return otherwise required.

1) Prior to January 1, 1994, IITA Section 1003(a) provides that interest at the rate of 9% per annum (or at such adjusted rate as is established under Section 6621(b) of the Internal Revenue Code) shall be paid on unpaid amounts of tax imposed by the Act from the due date to the date paid; however, subsection (e) thereunder provides that, if a notice and demand for payment of an amount due is issued, interest shall not be imposed for the period after the date of such issuance if such amount is paid within ten days.

2) On and after January 1, 1994, IITA Section 1003(a) provides that interest shall be paid in the manner and at the rate prescribed in Section 3-2 of the UPIA for the period from such date to the date of payment of such amount. Section 3-2(c) of the UPIA provides that if notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of such notice and demand, interest on the amount so paid shall not be imposed for the period after the date of the notice and demand.

b) Examination and determination of tax liability-

1) Filing and examination of return. After the income tax returns are filed with the Department, they are sorted, classified, and processed (which includes inspection of the return to verify the accuracy of the tax and supporting computations therein). Errors apparent in the return are corrected (see Section 100.9200(a)(2) below) and notification of the error and the corrections are sent to the taxpayer. Thereafter, many of these returns are selected for examination which may be conducted by correspondence, office audit, or field audit. If, after examination, the return is accepted as filed, the taxpayer is notified by appropriate "no change" letter or report. If, as a result of examination, adjustments are proposed increasing the amount of the tax liability shown on the return or (with or without a claim for refund) decreasing it, and the taxpayer agrees in whole or in part with such adjustments, he may be requested to execute Illinois Form IL-870, waiving the restrictions on assessment and

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

collection, and enabling immediate assessment upon acceptance by the Department after appropriate review of the examiner's (Revenue Auditor's) report. If adjustments are proposed with which the taxpayer does not agree, he ordinarily is afforded certain administrative appeal rights as described below which, however, do not apply in any case where criminal prosecution is under consideration or, in the discretion of the Director, the state's interest thereby would be prejudiced. Nor is appropriate action otherwise precluded where the assessment or collection of the tax is in jeopardy (see Section 1102 of the Illinois Income Tax Act).

2) A taxpayer initiates the administrative appeal rights adverted to in Subsection paragraph (b)(1) above by requesting, after the Department has proposed adjustments, an office conference to be attended by either himself or his representative (or both), the auditor, and the auditor's supervisor or other designee; the request may be by telephone or in writing. Written objections to the adjustments proposed are not required. The objectives of the office conference are to provide taxpayers an opportunity by discussion and further consideration to reach an early agreement respecting disputed items arising from the examination and to assure to the extent possible that all available pertinent facts, contentions, and viewpoints are included in the file and taken into account in the formulation of recommendations. Further objectives are to insure that the Act provisions as interpreted by regulations and rulings are properly applied and that the recommendations are consistent with any Department positions thereunder, as well as to provide a full explanation to the taxpayer and to reflect in the case file the findings and conclusions reached and the reasons therefor. If as a result of the office conference adjustments are proposed with which the taxpayer agrees in whole or part, he again ordinarily will be requested to execute the aforementioned Form IL- 870 subject to the Department's review and acceptance; see Section ~~96-1117-Adm-Gen~~ 100.9200(a) for the effect such execution has on the running of interest.

3) Audit Review: Issuance of Notice of Deficiency. If, after the office conference, the taxpayer does not agree with the proposed adjustments, the administrative case file will then be submitted to the Department's audit review staff for technical and arithmetic review. After such review, the Audit Review staff will issue a Notice of Deficiency pursuant to IITA 904(c) for any unagreed or disputed amounts. Notices of Deficiency, although to be prepared and issued by Audit Review, due to being in the nature of pleadings,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

shall be subject to review before issuance by the Income Tax Legal Division.

- c) Protest Procedures. Pursuant to IITA Sections 904(d) and 908(a) a taxpayer may protest the Notice of Deficiency by requesting a hearing before the Department. The taxpayer has 6045 days (150 days if the taxpayer is outside the United States) after the issuance of a Notice of Deficiency to submit a proper protest to the Audit Review Division. Failure to properly protest the Notice of Deficiency within the 60 (150) day period results in the automatic assessment of the tax, and penalty shown therein. See 86 Ill. Adm. Code 200.120 for protest requirements. Upon receiving a timely protest to the adjustments proposed in the examiner's report, the administrative case file will be forwarded to the Department's Income Tax Legal Division.

- d) Hearings. Department Hearings shall be conducted in accordance with the regulations provided at 86 Ill. Adm. Code 200, "Practice and Procedure for Hearings Before the Illinois Department of Revenue".

(Source: Amended at 25 Ill. Reg. 4520-2, effective 05/10/94.)

SUBPART V: NOTICE AND DEMAND

Section 100.9100 Notice and Demand (IITA Section 902)

- a) In general-

1) Notice required. Except as provided in subsection (b) below, the Director or his delegate shall issue written notice and demand for payment for any unpaid portion of taxes, penalties, and interest imposed by the Act as soon as practicable after an amount payable thereunder has been deemed assessed. The written notice (see IITA Section 1402) shall be given to the person or persons liable for the unpaid amount and shall state a time and place for payment. (Effective for taxable years ending after December 30, 1973, the written notice shall be sent by first class mail or left at the person's (or persons') usual place of business.)

2) Tax shown as due on returns. IITA Section 601(a) requires that a taxpayer pay (without notice or demand) the amount of tax shown on a return which remains unpaid after taking into account certain amounts enumerated in IITA Section 601(b).

3) Self-assessment; mathematical errors. IITA Section 903(a)(1) and (4) provides that the amount of tax shown on a return or on an amended return increasing the tax shall be deemed assessed as of the date the return is filed but that, irrespective of other provisions, any amount paid as tax or in respect of tax paid under the Act other than amounts withheld or paid as estimated tax under Articles 7 or 8

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

shall be deemed assessed upon the date of receipt of payments. If as a result of a mathematical error the amount of tax shown on a return or on such amended return is understated, the Department is to notify the taxpayer that the portion of the correct amount of tax in excess of that shown on the return has been (deemed) assessed is due. Also, thereunder, the tax computed by the Department on a return properly filed without the tax computation is to be deemed assessed as of the date when payment is due.

- 4) Notice of deficiency as prerequisite to assessment. Inasmuch as the tax deemed assessed in each of the above instances is based on the facts reported in the return or amended return filed by the taxpayer, any notice and demand issued to effect immediate collection of the tax remaining unpaid in connection therewith is not considered to be a notice of deficiency as that term is used in IITA Section 903(a)(2). However, a notice of deficiency is a prerequisite for assessment if the taxpayer fails to file a tax return and under the authorization in IITA Section 904(b) the Department determines the amount of tax and penalties due according to its best judgment and information.

- 5) Interest-

A) Prior to January 1, 1994, IITA Section 1003(a) and (e) provides that interest at the rate of 9% per annum (or at such adjusted rate as is established under Section 6621(b) of the Internal Revenue Code) is to be paid on any amount of tax imposed by the Act not paid on or before the date prescribed for payment thereof except that, if paid within 10 days after the date of issuance of notice and demand therefor, interest is not to be imposed for the period after the notice and demand issuance date. Interest begins with the date of issuance of the notice and demand on any penalty not paid within the 10-day period. (See IITA Sections 601(a) and 1003.)

B) On and after January 1, 1994, IITA Section 1003(a) provides that interest shall be paid in the manner and at the rate prescribed in Section 3-2 of the UPIA for the period from such date to the date of payment of such amount. Section 3-2(c) of the UPIA provides that if notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 21 days after the date of such notice and demand, interest on the amount so paid shall not be imposed for the period after the date of the notice and demand.

- b) Judicial review-

1) In general. If a notice of deficiency has been issued and deemed assessed under IITA Section 903(a)(2) and the person (or persons) liable for the tax has filed a timely protest

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

under IITA Section 908, notice and demand respecting such assessment shall not be made until all proceedings in court for review of the assessment have terminated or the time for taking thereof has expired without such proceedings being instituted.

- 2) Protest of notice of deficiency. IITA Section 908 provides that after a notice of deficiency is issued the taxpayer may file a protest against it within 60 days (150 days if the taxpayer is outside the United States). The Department's action on the protest, if no hearing was requested, becomes final 30 days after the mailing of a notice of decision. If a hearing was requested, the Department's action becomes final 30 days after the mailing of a notice of decision unless a rehearing is requested within that 30-day period. If, within that 30-day period, the taxpayer requests a rehearing on the decision, the Department's action becomes final either upon its issuance (within 10 days after the rehearing request is received) or a denial of the request, or, if such denial is not issued within that 10-day period, upon the Department's issuance (as soon as practicable) of a notice of final decision. (See Section 86-444--Adm--68e 100.9200 and this Section 100.9100.)
- 3) Administrative Review of decisions. IITA Section 1201 states that the provisions of the Administrative Review Act and rules adopted pursuant thereto shall apply to and govern all proceedings for the judicial review of the Department's final actions under IITA Sections 908(d) and 910(d). Section 4 of that Act states that every action to review a final administrative decision shall be commenced by the filing of a complaint and the issuance of summons within 35 days from the date of service on the party affected of a copy of the decision sought to be reviewed.

c) Action for recovery of taxes-

- 1) In general. The Department, at any time that levy proceedings may be timely commenced under IITA Section 1109, regardless of whether a notice of lien was filed under the provisions of Section 1103 may bring an action in any court of competent jurisdiction within or without this state to recover the amount of unpaid taxes, penalties, and interest due under the Act. For purposes of such action, certification by the Department of the correctness of the amount of any deficiency, its assessment, and of its procedural compliance with all provisions of the Act shall constitute prima facie evidence of such correctness, assessment, and procedural compliance.
- 2) Levy and sale authorized. If tax due under the Act remains unpaid for 10 days after issuance of a notice and demand for payment and no review proceedings have been commenced, then

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

under IITA Section 1109, the Department may institute levy and sale proceedings against real and personal property of the taxpayer within 20 years after of the filing (under IITA Section 1103) of a notice of lien.

- 3) Liens. Under IITA Sections 1102 and 1103, the Department may file a notice of regular lien or jeopardy assessment lien respecting the amount due of unpaid tax and penalty (plus interest due and unpaid at the time the notice of lien is filed) in the office of the Recorder of Deeds in the county in which the property (real or personal) subject to the lien is located. If title to land to be affected by the lien notice is registered under the May 1, 1897 Act concerning land titles mentioned in IITA Section 1103, the notice is to be filed in the office of the Registrar of Titles of the county in which the property subject to the lien is situated. (See also IITA Section 1109.)

(Source: Amended at 25 Ill. Reg. 324.5, effective 4/1/94)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Adopted Action:
130.101 Amendment
130.350 Amendment
130.540 Amendment
- 4) Statutory Authority: 35 ICS 120
- 5) Effective Date of Amendments: March 15, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: Section 130.101 - 11/17/00, 24 Ill. Reg. 16986 and Section 130.350 - 12/05/00, 24 Ill. Reg. 17948 and Section 130.540 - 11/17/00, 24 Ill. Reg. 16986
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon be the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? Yes
- | Section Numbers | Proposed Action | IL Register Citation |
|--------------------|-----------------|------------------------------|
| 130.310 Amendment | | 05/26/00, 24 Ill. Reg. 7617 |
| 130.101 Amendment | | 11/17/00, 24 Ill. Reg. 16986 |
| 130.540 Amendment | | 11/17/00, 24 Ill. Reg. 16986 |
| 130.350 Amendment | | 12/15/00, 24 Ill. Reg. 17948 |
| 130.535 Amendment | | 12/22/00, 24 Ill. Reg. 18505 |
| 130.2125 Amendment | | 12/22/00, 24 Ill. Reg. 18505 |
| 130.401 Amendment | | 01/05/01, 25 Ill. Reg. 44 |
| 130.110 Amendment | | 01/05/01, 25 Ill. Reg. 44 |

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 130.2105 Amendment 01/12/01, 25 Ill. Reg. 386
- 130.120 Amendment 01/26/01, 25 Ill. Reg. 1169
- 130.2011 Amendment 01/26/01, 25 Ill. Reg. 1169
- 130.2012 Amendment 01/26/01, 25 Ill. Reg. 1169
- 130.1501 Amendment 02/09/01, 25 Ill. Reg. 2325
- 130.2004 New Section 02/16/01, 25 Ill. Reg. 2676

15) Summary and Purpose of Amendments: This rulemaking amends Section 130.101 by implementing Public Act 91-870, which provides that "prepaid telephone calling arrangements" shall be considered tangible personal property subject to Retailers' Occupation Tax regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. Provides the definition of "prepaid telephone calling arrangements" and what is excluded from the definition. Also amends Section 130.540 by implementing Public Act 91-901, which provides that with respect to motor vehicles, watercraft, trailers, and aircraft, every retailer shall file a separate return for each such item the retailer sells, except that if, in the same transaction, beginning January 1, 2000, a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as qualifying rolling stock as provided in Section 2-5 of the Retailers' Occupation Tax Act, then that seller may report the transfer of all aircraft, watercraft, motor vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form.

Section 130.350 amends the regulation pertaining to Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment by providing that equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment. Also provides that roof bolt supports and side rib bolt supports that prevent mine collapse are equipment exempt from tax.

16) Information and questions regarding these adopted amendments shall be directed to:

Gina Roccaforte
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.301	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturer's Purchase Credit
130.331	Automatic Vending Machines that Dispense Hot Food or Beverages
130.332	Pollution Control Facilities
130.335	Rolling Stock
130.340	Oil Field Exploration, Drilling and Production Equipment
130.345	Coal Exploration, Mining, Off Highway Hauling, Processing,
130.350	Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

Section	
130.701	

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser

Section	
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--Penalties--Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns--When Due--Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	Final Returns When Business is Discontinued
130.520	Who May Sign Returns
130.525	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.530	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.535	Returns on a Transaction by Transaction Basis
130.540	Registrants Must File a Return for Every Return Period
130.545	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration

DEPARTMENT OF REVENUE		NOTICE OF ADOPTED AMENDMENTS
PROCEDURE IN DISPUTED CASES INVOLVING FINANCIAL RESPONSIBILITY REQUIREMENTS		
130.710	130.710	Procedure When Security Must be Forfeited
130.715	130.715	Sub-Certificates of Registration
130.720	130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	130.725	Display
130.730	130.730	Replacement of Certificate
130.735	130.735	Certificate Not Transferable
130.740	130.740	Certificate Required For Mobile Vending Units
130.745	130.745	Revocation of Certificate
SUBPART H: BOOKS AND RECORDS		
General Requirements		
Section	Section	
130.801	130.1401	
130.805	130.1405	
130.810	130.1410	
130.815	130.1415	
130.820	130.1420	
130.825		
SUBPART I: PENALTIES AND INTEREST		
Civil Penalties		
Section	Section	
130.901	130.1501	
130.905	130.1505	
130.910	130.1510	
	130.1515	
SUBPART J: BINDING OPINIONS		
When Opinions from the Department are Binding		
Section	Section	
130.1001	130.1601	
	130.1605	
	130.1610	
SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS		
Definition of Federal Area		
Section	Section	
130.1101	130.1701	
130.1105		
130.1110		
SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING		
General Information		
Section	Section	
130.1201	130.1801	
130.1205	130.1805	
	130.1810	

DEPARTMENT OF REVENUE		NOTICE OF ADOPTED AMENDMENTS
SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE		
When Lessee of Premises Must File Return for Leased Department		
Section	Section	
130.1301	130.1301	
130.1305	130.1305	
130.1310	130.1310	
SUBPART N: SALES FOR RESALE		
Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale		
Section	Section	
130.1401	130.1401	
130.1405	130.1405	
130.1410	130.1410	
130.1415	130.1415	
130.1420	130.1420	
SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX		
Claims for Credit--Limitations--Procedure		
Section	Section	
130.1501	130.1501	
130.1505	130.1505	
130.1510	130.1510	
130.1515	130.1515	
SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS		
When Returns are Required After a Business is Discontinued		
Section	Section	
130.1601	130.1601	
130.1605	130.1605	
130.1610	130.1610	
SUBPART Q: NOTICE OF SALES OF GOODS IN BULK		
Bulk Sales: Notices of Sales of Business Assets		
Section	Section	
130.1701	130.1701	
SUBPART R: POWER OF ATTORNEY		
When Powers of Attorney May be Given		
Section	Section	
130.1801	130.1801	
130.1805	130.1805	
130.1810	130.1810	
SUBPART S: SPECIFIC APPLICATIONS		

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section	
130.1901	Addition Agents to Plating Baths
130.1901	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropractors, Osteopaths and Chiropractors
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1950	Dentists
130.1951	Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1955	Farm Chemicals
130.1960	Finance Companies and Other Lending Agencies -- Installment Contracts -- Bad Debts
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
130.1985	Pawnbrokers
130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated as Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.2050	Shows, Flea Markets and the Like
130.2055	Sales and Gifts By Employers to Employees
130.2060	Sales by Governmental Bodies
130.2065	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2066	Sales of Automobiles for Use in Demonstration (Repaired)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Specialized Builders
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Vendors of Signs
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen

ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 32, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6700, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 16996, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18176, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10000, effective _____, effective _____.

SUBPART A: NATURE OF TAX

Section 130.101 Character and Rate of Tax

The Retailers' Occupation Tax Act (the Act) [35 ILCS 120] imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. On and after January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under the Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed (Section 2 of the Act). "Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more intrastate, interstate, or international telephone calls or other telecommunications using an access number, an authorization code, or both, whether manually or electronically dialed, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. For purposes of this Section, "recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a different access number or authorization code. For purposes of this Section, "telecommunications" means that term as defined in Section 2 of the Telecommunications Excise Tax Act [35 ILCS 630]. "Prepaid telephone calling arrangement" does not include an arrangement whereby the service provider reflects the amount of the purchase as a credit on an account for a customer under an existing subscription plan. (Section 2-27 of the Act) The tax is measured by the seller's gross receipts from such sales made in the course of such business. (For further information concerning "Gross Receipts", see Subpart D of this Part.)

a) How to Determine Effective Rate

1) For the purposes of the Retailers' Occupation Tax Act, any tax liability incurred in respect to a sale of tangible personal property made in the regular course of business shall be computed by applying, to the gross receipts from such sale, the tax rate in effect as of the date of delivery of such property, provided that if delivery occurs after the tax rate changes, in a transaction in which receipts were received before the date of the rate change and tax was paid on such receipts when received by the seller in accordance with Section 130.430 of this Part at the rate which was in effect when the seller received such receipts, no additional tax will be due or credit allowed because of the delivery of the property occurring after the rate change. Furthermore, in the case of sales of building materials to real estate improvement construction contractors for use in performing

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

construction contracts for third persons, if such property is delivered to the contractor after the effective date of a rate increase but will be used in performing a binding construction contract which was entered into before the effective date of the increase and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, the applicable tax rate will be the rate which was in effect before the effective date of the rate increase. Before a supplier may deliver materials to a construction contractor after the effective date of a tax rate increase at the rate which was in effect prior thereto, the purchasing contractor must give such supplier a written, signed certification stating that specifically described materials are being purchased for use in performing a binding contract which was entered into before the effective date of the rate increase (specifying such date) and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, identifying the construction contract in question by its date and by naming the contractor's construction work involved, and by giving the location on the job site where the construction contract is being performed or is to be performed.

b) Tax Rate in Effect

The effective rate from January 1, 1985, through December 31, 1989, is 58. On and after January 1, 1990, the effective rate is 6.25%, beginning on July 1, 2000 through December 31, 2000, with respect to motor fuel and gasohol, the tax is imposed at the rate of 1.25% (Section 2-10 of the Act)

"Diesel Fuel" is defined as any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark. [35 ILCS 505/2]

"Gasohol" means motor fuel that is no more than 90% gasoline and at least 10% denatured ethanol that contains no more than 1.25% water by weight. [35 ILCS 105/3-40]

"Motor Fuel" means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. Among other things, "Motor Fuel" includes "Special Fuel". [35 ILCS 505/1.1]

"Special Fuel" means all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine except that it does not include gasoline as defined in Section 5, example (A) of the Motor Fuel Tax Law or combustible gases as defined in Section 5, example (B) of the Motor Fuel Tax Law. "Special Fuel" includes diesel fuel. [35 ILCS 505/1.13]

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

By way of illustration and not limitation, the following are considered motor fuel:

- 1) Gasoline
- 2) Diesel fuel
- 3) Combustible gases (e.g., liquified petroleum gas and compressed natural gas) delivered directly into the fuel supply tanks of motor vehicles
- 4) Gasohol.

By way of illustration and not limitation, the following are not considered motor fuel:

- 1) Avgas
- 2) Jet fuel
- 3) I-K kerosene
- 4) Combustible gases unless delivered directly into the fuel supply tanks of motor vehicles
- 5) Heating oil (e.g., kerosene and fuel oil) unless delivered directly into the fuel supply tanks of motor vehicles, in which case it is considered diesel fuel.

c) Effective Date of New Taxes

When something that has been exempted becomes taxable as to sales that are made on and after some particular date, the date of sale for this purpose shall be deemed to be the date of the delivery of the property. This is true even if such delivery is made under a contract that was entered into before the effective date of the new tax.

d) Relation of Retailers' Occupation Tax to Use Tax
The Retailers' Occupation Tax is an occupation tax whose legal incidence is on the seller rather than on the purchaser. However, with the enactment of the Use Tax Act in 1955 [35 ILCS 105], the retailer became a tax collector under that Act and is required to comply with the bracket systems or tax collection schedules prescribed in the Department's Use Tax Regulations for the collection of the Use Tax by retailers from users.

(Source: Amended at 25 Ill. Reg. 4850, effective 1/1/91)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

a) General. prior to June 24, 1996, notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250 or more. The exemption also applies to individual replacement parts for coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment when the replacement part costs \$250 or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

more. Equipment and parts sold by the linear foot or similar measurement qualify for the exemption if the cost of the total length sold in an individual transaction or sale exceeds \$250. The exemption also applies to equipment and replacement parts costing \$250 or more purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code (625 ICS 5). On and after June 24, 1996, the exemption is not conditioned upon the \$250 purchase threshold requirement.

1) This exemption applies only to equipment used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance or reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in coal exploration, mining, off highway hauling, processing, maintenance or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, coveralls, masks, mask air (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

2) "Coal Exploration" means the search for coal. Exploration includes, but is not limited to, excavating and drilling to locate coal deposits.

3) "Mining" means the extraction of coal from the earth by underground and surface mining and includes the extraction of coal by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.

4) "Off Highway Hauling" means carrying or transporting and would include transport of overburden, waste material, including gob from the processing facility for disposal, and coal from the coal seam to the processing facility by conveyors or unlicensed vehicles.

5) "Processing" means preparation activities performed directly on the coal which are necessary for converting coal into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.

6) "Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

7) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

8) "Replacement Parts" means parts that are used to replace parts of qualifying equipment and that require periodic replacement. To be considered a replacement part, the part must be purchased for the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

purpose of being installed and must, in fact, become a physical component part of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment. Prior to June 24, 1996, there is a requirement that such replacement parts cost \$250 or more. On and after June 24, 1996, there is no such limitation.

9) "Kits" means commercially-packaged sets of parts which are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. Prior to June 24, 1996, a kit will be treated as a single item for purposes of the \$250 per item limitation. The \$250 per item limitation is also satisfied when an item to be used primarily in a qualifying activity is assembled by the retailer at the time of sale from components selected by the purchaser and which is sold as a unit if the unit, as sold, costs \$250 or more. On and after June 24, 1996, there is no such limitation. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

b) Exempt Activities

By way of illustration and not limitation, the following activities will be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:

1) Coal is produced in a surface mining operation that begins with the clearing of surface obstacles and overburden from the land above the coal deposit to be mined, continues with the removal of waste material and with the extraction of the coal, continues with the transportation from the coal seam to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material from a subsequently mined area, continues further with the processing of the coal, and ends with the stockpiling of the coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

A) Equipment used to drill holes for blasting material to dislodge the overburden and to transport the blasting material.

B) Equipment used to remove overburden and other waste materials from the pit to be mined.

C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.

D) Pumps and hose used to remove water or to divert water from the active pit area.

E) Equipment used to load the overburden, waste material or coal to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.

F) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or coal to the processing facility.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- G) Equipment used in grading, refilling and covering over a previously mined pit with the overburden removed from the next pit being mined.
- H) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.
- I) Equipment used in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.130).
- J) Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
- K) Coal is produced in an underground mining operation that begins with the boring of a shaft from the surface to the coal deposit to be mined, continues with the removal of waste material and the extraction of coal, continues further with the transportation from the coal seam to the processing facility, the coating of walls with the installation of roof supports and the collapse of waste material from the mine and processing facility, and ends with the stockpiling of coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:
- Continuous miners used to bore the shaft, cut the coal and load it into shuttle cars.
 - Shuttle cars used to transport the coal from the continuous miner to the feeder-breaker at the end of a conveyor belt or other transportation system.
 - The feeder-breaker which breaks the large lumps of coal and feeds the coal onto the conveyor belt which carries the coal outside the mine where it is stockpiled or transported to the processing facility.
 - Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.
 - Pumps and hose used to remove water from the underground mine.
 - Equipment used to install roof bolt supports and side rib bolt supports to prevent mine collapse.
 - Equipment used to coat mine walls with inert limestone as the coal is removed to prevent explosions caused by the escape of volatile materials.
 - Equipment installed as improvements to real estate in underground mining such as elevators, rail, ventilating and

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- I) illuminating systems.
- J) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintaining or improvement of underground mine structures. Materials, such as lumber, steel, concrete, rock and other building materials, qualify for the exemption only when used in underground mine structures.
- K) Additions to exempt underground rail conveyors, ventilating and illumination systems due to the progression of mining will be considered as exempt, as long as, prior to June 24, 1996, the addition is valued at \$250 or more. On and after June 24, 1996, there is no such limitation.
- L) Longwall equipment consisting of shields, sheeters, face conveyors and related equipment.
- M) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.
- N) Equipment used in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.130).
- O) Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
- P) Roof bolt supports and side rib bolt supports to prevent mine collapse.
- Q) By way of illustration and not limitation, the following maintenance equipment is exempt:
- Unlicensed maintenance and welding trucks used for field repair of exempt equipment.
 - Lathes, drill presses, air compressors and welders used to work repair parts.
 - Mobile and overhead cranes.
- R) By way of illustration and not limitation, the following coal exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
- Drill rigs used to drill exploration core holes.
 - Water trucks used in the drilling process.
 - Winch and casing trucks used in the drilling process.
 - Field maintenance trucks used to make repairs on field equipment.
 - Air compressors.
- S) Nonexempt Activities
- By way of illustration and not limitation, the following activities will not be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures;
- 2) the use of equipment in research and development for new uses of coal;
- 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production or extraction scheduling, purchasing, receiving, accounting, fiscal management and communications, security, marketing, product exhibition and promotion, personnel recruitment, selection or training;
- 4) the use of equipment to prevent or fight fires or other mining hazards, protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, even though such equipment and supplies may be required by law;
- 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation;
- 6) facilities for storing coal after extraction and processing;
- 7) front-end loaders, cranes, equipment used to load coal onto trucks, railcars or barges for delivery to customers.
- d) Sales to Lessors of Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
 - 1) For the exemption to apply, the purchaser need not, himself, employ the equipment in coal exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption.
 - A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.
 - ?) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the reduction, the purchaser-lessor will become liable for the tax which he previously did not pay.
- e) Purchaser Certification

Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for coal exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment which is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 25 Ill. Reg. 4850, effective 8-1-88.)

SUBPART E: RETURNS

Section 130-540 Returns on a Transaction by Transaction Basis

a) Who Must File Transaction Reporting Returns

In addition, with respect to motor vehicles, watercraft, trailers, and aircraft (and implements of husbandry or special mobile equipment for which the purchaser intends to apply for an optional title), every retailer selling this kind of tangible personal property in Illinois shall file, with the Department, upon a form prescribed and supplied by the Department, a separate return for each such item of tangible personal property that the retailer sells, except that if, in the same transaction:

- 1) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than one aircraft, watercraft, motor vehicle or trailer to another aircraft, watercraft, motor vehicle or trailer (retailer for the purpose of resale); or
- 2) beginning January 1, 2001, a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as qualifying rolling stock (see Section 130.340) as provided in Section 2-5 of the Act;

then that seller may report the transfer of all aircraft, watercraft, motor vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form. (Section 3 of the Act) For purposes of the exception in subsection (a)(2) above, retailers may only report multiple sales of items of like kind and character on a single uniform invoice-transaction reporting return form. For example, retailers may report the sale of 15 motor vehicles to a single purchaser on a single uniform invoice-transaction reporting return form. However, retailers may not report the sale of 10 trailers and 5 motor vehicles to a single purchaser on a single uniform invoice-transaction reporting return form. Such a sale requires one uniform invoice-transaction

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

reporting return form for the trailers and a second uniform invoice-transaction reporting return form for the motor vehicles.

In addition, with respect to motor vehicles and aircraft, watercraft, and trailers that are required to be registered with an agency of this State and implemented by a subsidiary or special mobile equipment for which the purchaser intends to apply for an optional title, every retailer selling this kind of tangible personal property, including a retailer selling with two departments upon a form provided and supplied by the Department, is required to return for each such item of tangible personal property which the retailer sells.

b) Function and Contents of Transaction Reporting Returns

1) The transaction reporting return prescribed and supplied to retailers by the Department not only shall serve as such return (for both the buyer and the seller), but also may serve as the dealer's invoice to the purchaser. Such forms will be numbered. The Department will keep a record of all of these forms which it supplies to a given retailer, and he is responsible for accounting to the Department for all such forms. If a transaction reporting return form should be lost, the retailer should mark it "voided" and retain it in his books and records for 42 months. Transaction reporting returns are not transferable by one retailer to another, but must be filed with or otherwise accounted for to the Department by the retailer to whom the particular forms are issued by the Department.

2) Such transaction reporting return must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of Use Tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold, and such other information as the Department may reasonably require.

c) Transaction Reporting Returns, When Due, Transaction Reporting Returns in Lieu of Monthly Returns

1) Such transaction reporting return shall be filed not later than 20 days after the date of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so.

2) If a retailer's sales of tangible personal property are limited to sales of motor vehicles, aircraft, watercraft, or trailers that are required to be registered with an agency of this State,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

or a combination of these items, so that all of his Retailers' Occupation Tax liability is required to be reported, and is reported, on such transaction reporting returns, and such retailer is not otherwise required to file monthly returns, such retailer need not file monthly returns.

3) If a retailer of motor vehicles, aircraft, watercraft, or trailers that are required to be registered with an agency of this State, or a combination of these items, need not file a monthly return, such retailer shall be required to file returns on an annual basis.

d) Transmittal of Transaction Reporting Return by Way of Titling or Registering Agency

The transaction reporting return and tax remittance or proof of exemption may be transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal property must be titled or registered if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

e) Returns -- Issuance of Use Tax Receipt or Exemption Determination by Department of Revenue

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a Use Tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, the must title or register the tangible personal property that is involved in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

f) Issuance of Title or Registration Where Retailer Fails or Refuses to Remit Tax Collected by Retailer from User

No retailer's failure or refusal to remit tax hereunder shall preclude a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other evidence of title or registration upon satisfying the Department that such user has paid the proper tax (if tax is due) to the retailer.

g) Direct Payment of Tax by User to Department on Intrastate Purchase under Certain Circumstances

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS

reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 1.75% discount being allowed. When the user pays the tax directly to the Department as aforesaid, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

(Source: Amended at 25 Ill. Reg. 4950 -, effective)

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Action:
140.101 Amendment
140.105 New Section
140.106 New Section
140.108 New Section
140.109 New Section
140.110 New Section
140.111 Amendment
140.125 Amendment
140.135 Amendment
140.145 Amendment
140.201 Amendment
140.301 Amendment
140.901 Amendment
140.1001 Amendment
140.1005 Amendment
140.1010 Repeal
140.1015 Repeal
140.1025 Amendment
140.1305 Amendment
140.1401 Amendment

4) Statutory Authority: 35 ILCS 115

5) Effective Date of Amendments: March 23, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 10/27/00, 24 Ill. Reg. 15852 and 11/17/00, 24 Ill. Reg. 17000

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

indicated in the agreement letter issued by JC&R? Yes

13) Will these amendments replace emergency amendments currently in effect?
yes Section 140.125

14) Are there any amendments pending on this Part? Yes

Section Numbers Proposed Action IL Register Citation
140.141 New Section 12/01/00, 24 Ill. Reg. 17498

15) Summary and Purpose of Amendments: These regulations amend and add new rules governing the Service Occupation Tax to explain the various methods that may be utilized by servicemen to handle their tax liability. In particular, the regulations seek to provide guidance regarding the various "de minimis" methods that may be utilized by servicemen to handle their tax liability. Rules have been expanded to clarify the "unregistered de minimis" method, authorized by the provisions of Public Act 86-905. The rules also explain and provide examples of the "registered de minimis" method of handling liability, which was authorized by P.A. 87-876. The rules also implement recent legislation providing special procedures for multi-service transactions between unregistered de minimis servicemen, as authorized by P.A. 89-675. The rules clarify that the unregistered de minimis method is available for out-of-State servicemen, and that, consequently, service customers will not incur Service Use Tax liability when making purchases from such servicemen. The rules provide numerous "pass-through" exemptions for unregistered de minimis servicemen.

This rulemaking amends Section 140.101 by implementing Public Act 91-870, which provides that "prepaid telephone calling arrangements" shall be considered tangible personal property subject to Service Occupation Tax regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. Provides the definition of "prepaid telephone calling arrangements" and what is excluded from the definition.

16) Information and questions regarding these adopted amendments shall be directed to:

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The full text of the adopted amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE

CHAPTER 1: DEPARTMENT OF REVENUE

PART 140

SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section 140.101

Basis and Rate of the Service Occupation Tax
Calculation of Tax Incurred by Servicemen - Threshold Determination of Cost Ratio Registration of Servicemen
When Cost Ratio is 35% or Greater, Service Occupation Tax Liability Is Incurred by Servicemen on Their Selling Price
"De Minimis" Servicemen Who Incur Use Tax on Their Cost Price
"De Minimis" Servicemen Who Incur Service Occupation Tax on Their Cost Price
Example of Methods Used by Servicemen to Determine Liability
Presumption that Tax Applies-Repealed

Section 140.110

Occasional Sales to Servicemen by Suppliers (Repealed)
Meaning of Serviceman
Examples of Nontaxability
Taxation Exemption of Food, Drugs and Medical Appliances
Service Provided to Persons Who Lease Tangible Personal Property to Exempt Hospitals
Persons Who Lease Tangible Personal Property to Governmental Bodies
Suppliers of Printers (Repealed)
Sales of Drugs and Related Items, to or by Pharmacists (Repealed)
Other Examples of Taxable Transactions
Multi Service Situations

Section 140.115

General Definitions
SUBPART B: DEFINITIONS

Section 140.120

General Definitions
SUBPART C: BASE OF THE TAX
Cost Price
Refunds by Supplier or Serviceman

Section 140.301

Monthly Returns When Due -- Contents of Returns
Annual Tax Returns
Final Return
SUBPART D: TAX RETURNS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

140.415 Taxpayer's Duty to Obtain Form
140.501 Annual Information Returns by Servicemen
140.420 Filing of Returns for Servicemen "Suppliers" by their Suppliers
140.425 Under Certain Circumstances
140.430 Incorporation by Reference

SUBPART B: INTERSTATE COMMERCE

Section
140.501 Sales of Service Involving Property Originating in Illinois
140.505 Sales of Service Involving Property Originating Outside of Illinois (Repealed)

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

Section
140.601 General Information

SUBPART G: BOOKS AND RECORDS

Section
140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section
140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

Section
140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

Section
140.1001 Payment of Tax to-the-Supplier
140.1005 Receipt to be Obtained for Tax Payments
140.1010 Payment of Tax Directly to the Department (Repealed)
140.1015 Itemization of the Tax by Suppliers (Repealed)
140.1020 Use of Bracket Chart
140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING -- MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section
140.1101 Filing of Documents with the Department

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
140.1201 When Lessee of Premises May File Return for Leased Department
140.1205 When Lessor of Premises Should File Return for Leased Department
140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

Section
140.1301 When Purpose of Serviceman's Purchase is Known (Repealed)
140.1305 When Purpose of Serviceman's Purchase is Unknown
140.1310 Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
140.1401 Claims for Credit -- Limitations -- Procedure
140.1405 Disposition of Credit Memoranda by Holders Thereof
140.1410 Refunds
140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

Section
140.1501 Procedures

SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section
140.1601 Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section
140.1701 General Information

AUTHORITY: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 1, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended at 18 Ill. Reg. 1550, effective January 13, 1994; amended at 20 Ill. Reg. 5379, effective March 26, 1996; amended at 20 Ill. Reg. 7008, effective May 7, 1996; amended at 20 Ill. Reg. 16211, effective December 16, 1996; amended at 24 Ill. Reg. 8125, effective May 26, 2000; emergency amendment at 25 Ill. Reg. 1811, effective January 14, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14971, effective 1/1/01.

SUBPART A: NATURE OF TAX

Section 140.101 Basis and Rate of the Service Occupation Tax

- a) The Service Occupation Tax Act (the Act) [35 ILCS 115]-~~111~~-Rev-~~Stat.-1969-CH-326-PARA-439-101-ET-SECT~~ imposes a tax upon persons engaged in this State in the business of making sales of services, based on tangible personal property transferred incident to sales of service. These persons are referred to in this Part hereinafter as servicemen.
- b) ~~Rate of Tax The rate of the tax after September 30, 1969, is 4%, and on and after January 1, 1969, and prior to January 1, 1996, is 5% of the serviceman's cost price of tangible personal property transferred by the serviceman as an incident to a sale of service. Except as provided in subsection (3), on and after January 1, 1996, the rate of tax is 6.25% of the selling price of tangible personal property transferred by the serviceman.~~

1) The rate of Service Occupation Tax (SOT) incurred by a serviceman from October 1, 1969 through December 31, 1981, is 4%, and on and after January 1, 1984 and prior to January 1, 1990, is 5% of the serviceman's cost price of tangible personal property transferred by the serviceman incident to a sale of service. On and after January 1, 1990, if SOT is computed on the selling price of the property transferred incident to sales of service, the rate is 6.25%. On and after January 1, 1993, if SOT is computed on the cost price of tangible personal property transferred incident to the service, the rate is also 6.25%. Exceptions to these rules, however, are as follows:

- A) On and after January 1, 1984, and prior to January 1, 1990, food for human consumption that is to be consumed off the premises where it is sold (other than soft drinks, alcoholic beverages and food that has been prepared for immediate consumption and except as provided in subsection (b)(1)(B)) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

syringes and needles used by diabetics, for human use, will be taxed at the rate of 0%. On and after January 1, 1990, the rate of tax will be 1%.

- B) Effective January 1, 1993 food prepared for immediate consumption and transferred incident to a sale of service by an entity licensed under the Hospital Licensing Act or the Nursing Home Care Act shall be subject to tax at the rate of 1%. Effective August 17, 1999, the 1% rate shall also apply to food prepared for immediate consumption and transferred incident to a sale of service by an entity licensed under the Child Care Act of 1969. (Section 3-10 of the Act) Beginning on July 1, 2000 through December 31, 2000, with respect to motor fuel and gasoline, the tax is imposed at the rate of 1.25% (Section 3-10 of the Act). (See the provisions of 86 Ill. Adm. Code 130.101, which is incorporated by reference as if fully set forth in this subsection (b).)
- 2) On and after January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under the Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. (Section 3 of the Act) "Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more intrastate, interstate, or international telephone calls or other telecommunications using an access number, an authorization code, or both, whether manually or electronically dialed, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. For purposes of this Section, "recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a different access number or authorization code. For purposes of this Section, "telecommunications" means that term as defined in Section 2 of the Telecommunications Excise Tax Act [35 ILCS 630]. "Prepaid telephone calling arrangements" does not include an arrangement whereby the service provider reflects the amount of the purchase as a credit on an account for a customer under an existing subscription plan. (Section 3-27 of the Act)
- c) The date of the sale of service is deemed to be the date of the delivery to the user of the tangible personal property that the serviceman transfers as an incident to a sale of service.
- d) When a serviceman contracts to design, develop and produce special order machinery or equipment, the tax imposed under the Service Occupation Tax shall be based on the serviceman's cost price of the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

tangible personal property transferred incident to completion of the contracts regardless of that serviceman's annual threshold. (Section 3-10 of the Act)

- c) *On and after January 1, 1984, and prior to January 1, 1989, food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine, testing utensils, syringes and needles used by diabetics for human use, will be taxed at the rate of 9%.* On and after January 1, 1990, the rate of tax will be 7%.

Food does not include soft drinks.

- d) *The date of the sale of service is deemed to be the date of the delivery to the user of the tangible personal property which the serviceman transfers as an incident to service.*

- e) *Effective January 1, 1990, for the purpose of determining the tax base, selling price shall in no event be less than the cost price to the serviceman of the tangible personal property transferred. The selling price of each item of tangible personal property transferred incident to a sale of service may be stated as a distinct item by the serviceman to the service customer and the tax imposed by the Act shall when collected be stated as a distinct item separate and apart from the selling price of the tangible personal property. If the selling price of each item of tangible personal property transferred incident to a sale of service is not stated as a separate item on the serviceman's billing to the service customer, then the tax imposed by the Act shall be based on 50% of the serviceman's entire billing to the service customer (Section 3-10 3 of the Act), but in no event shall this amount be less than the cost price to the serviceman of the tangible personal property so transferred.*

- f) *A taxpayer who is registered may purchase all tangible personal property for resale by providing their suppliers with valid resale certificates even if in some transactions the cost price of the tangible personal property will be less than 3 1/4 of the total gross receipts from the transaction. If the serviceman paid tax to his supplier in the expectation that the cost of parts would be less than 3 1/4 of the total transaction selling price, but the actual percentage was more than 3 1/4, the serviceman would be able to take credit on the tax paid to the supplier but would be liable for tax on the selling price of the parts, if stated, or on 50% of the total transaction selling price. In the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, replace the references to 3 1/4 in this subsection with 75%. The serviceman may also be liable for penalties due to a failure to file returns.*

- g) *A serviceman making a sale of service in which the cost price of tangible personal property transferred as an incident to the sale of service is less than 3 1/4 of 75% in the case of a serviceman transferring prescription drugs or servicemen engaged in graphic arts production as the term graphic arts production is defined in Section 2-39 of the*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Retailers--Occupation Tax Act--(iii) Rev. Stat. 1989, ch. 120, par. 2-3(f) of the total gross receipts from the transaction is not subject to service occupation tax. However, the purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax and Use Tax and should be paid by the serviceman to his supplier or self assessed and paid to the Department of Revenue by the serviceman if the 3 1/4 threshold as follows:

i) *Transaction by transaction method--A service transaction means all sales of services set forth on a single invoice, for example, in a car repair transaction several different services may be billed on one invoice. All such services shall be grouped and considered together to determine if the cost of goods is 3 1/4 or more of that total transaction amount.*

Example:

	COSP	SELLING PRICE	LABOR CHARGE	REPAIR CHARGE
1. Replace exhaust pipe, muffler, clamps	5.60.00	5.60.00	5.50.00	5.150.00
2. Fix brakes: A. turn rotors, B. pad, master cylinder			40.00	40.00
3. Oil change: filter, five quarts	150.00	250.00	80.00	330.00
	4.00	8.00	10.00	10.00
	\$214.00	\$358.00	\$100.00	\$530.00

wherefore, \$214.00 cost of parts--3 1/4 of the--\$530.00--total transaction amount--Service Occupation Tax (\$50) is due on the \$358.00 selling price of the parts when that amount is separately stated on the bill apart from the \$100.00 charge for labor--if the selling price of the parts is not specifically stated (\$358.00) on the invoice, one half of the total transaction amount--(\$358.00 divided by 2--\$179.00)--is subject to 50% of the cost price of the parts need not be stated on the customer's invoice--but is shown here for illustrative purposes only--if the cost price of the parts was less than 3 1/4 of the total service charge--the serviceman would self assess Use Tax on the purchase price (\$214.00) of the parts if tax was not previously paid to the supplier--if tax was paid to the supplier the serviceman is not required to collect tax as a specific item on the invoice to the customer--Retail sales subject to Retailers' Occupation Tax--such as over-the-counter sales of parts--must

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- be excluded when determining the 35% threshold.
- 2) Annual aggregate method--a serviceman may elect to determine if he is under the 35% cost-of-materials--to-total-transaction selling-price ratio by examining the total annual aggregate cost of parts transferred in the course of providing service--and the total annual aggregate receipts--from the sales of service--including sales of service in which no property was transferred. The cost-of-materials sold at retail or removed from inventory for use or incorporated into repairs of real-estate must be excluded when determining the above percentage threshold. The annual aggregate method will be determined on the basis of the taxpayer's fiscal year--the taxpayer may elect to use either method to determine the cost of materials in the total transaction selling-price ratio.
- 3) When--a serviceman--contracts--to design, develop and render special order machinery or equipment, the tax imposed on this activity shall be based on the serviceman's cost-price of the tangible personal property transferred--incident to the completion of the contract. Section 3 of the Act.

- 4) Taxpayers who are registered may purchase or tangible personal property for resale by providing their suppliers with valid resale certificates even if in some transactions the cost-price of the tangible personal property will be less than 35% of the total gross receipts from the transaction. If the serviceman paid tax to his supplier in the expectation that the cost of parts would be less than 35% of the total transaction selling price, but the actual percentage was more than 35% the serviceman would be liable for the additional tax paid to the supplier but would be liable for tax on the selling price of the parts if the statutory or on any other total transaction selling price. In the case of a serviceman transferring prescription drugs or a serviceman engaged in graphic arts production, replace the references to 35% in this subsection with 75%. The above amendments may also be liable for penalties due to a failure to file returns.

Examples:

Cost	Selling Price	Gross Receipts	Tax Base
Net--Separately Stated	\$50.00	\$62.50	\$50.00--(Base is never less than --cost price)
Separately Stated	\$12.00	\$14.00	\$15.00 (Selling price)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Net--Separately Stated	\$12.00	--0--	\$30.00	\$15.00--(Net of gross receipts)
Separately Stated	\$12.00	\$10.00	\$26.00	\$12.00--(Outer selling price)
	\$2.00	\$5.00	\$10.00	Net subject to Service Occupation Tax--Subject to Retalier's Occupation Tax--Pay--35% Price 32.00

(Source: Amended at 25 Ill. Reg. 140.105, effective 1/1/93)

Section 140.105 Calculation of Tax Incurred by Servicemen - Threshold Determination of Cost Ratio Registration of Servicemen

- a) On and after January 1, 1990, a serviceman may incur either Service Occupation Tax or Use Tax liability when transferring tangible personal property incident to retail sale of service. The type of tax liability incurred depends upon several factors. The single most important factor is determining the cost ratio between the annual aggregate cost of tangible personal property transferred incident to sales of service and the annual gross receipts from all sales of service.

If this cost ratio is 35% or greater (75% or greater in the case of servicemen transferring prescription drugs or engaged in graphic arts production), the serviceman is required to register and remit Service Occupation Tax on his selling price, as explained in Section 140.106. When the cost ratio is below 35% (75% in the case of servicemen transferring prescription drugs or engaged in graphic arts production), the serviceman, in lieu of paying Service Occupation Tax on the selling price, has the following options:

- From January 1, 1990 until December 31, 1992, if the cost ratio is below 35% (or less than 75% in the case of servicemen transferring prescription drugs or engaged in graphic arts production), the serviceman may pay Use Tax on his cost price, if the conditions set out in Section 140.108 are met. However, on and after January 1, 1993, this option is not available if the serviceman is otherwise required to be registered as a retailer under Section 2a of the Retailers' Occupation Tax Act.
- On and after January 1, 1993, if the cost ratio is below 35% (or 75% in the case of servicemen transferring prescription drugs or engaged in graphic arts production) and if the serviceman is

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act, the serviceman may pay Service Occupation Tax on his cost price, as explained in Section 140.109.

- c) The cost of materials that are not transferred to customers incident to service, such as those sold at retail, removed from inventory for use, or incorporated into repairs of real estate, must be excluded when determining the cost ratio.

- d) Beginning January 1, 1990 through December 31, 1992, a serviceman may determine if he meets the cost ratio on a transaction by transaction basis. On and after January 1, 1993, the taxpayer must make this determination on the basis of his fiscal year.

- e) The annual aggregate cost of the tangible personal property transferred incident to sales of service, as well as the total annual receipts from sales of service, must be determined on the basis of the taxpayer's fiscal year. Prior years' ratios, while sometimes helpful, cannot be relied upon to establish the current year's threshold. Estimates can be made based on prior years, but if they are not accurate, the taxpayer must adjust the manner in which tax is calculated and remit all taxes, penalties and interest due.

- f) The following example illustrates how to calculate this ratio:

Annual aggregate cost of parts	\$ 56,000
Marked up selling price of parts	\$ 75,600
Service or labor charge	\$ 20,000
Sales of service only	\$ 16,400
Annual gross receipts	\$112,000

To figure the cost ratio, divide the annual aggregate cost of parts of \$56,000 by the annual gross receipts of \$112,000.

$$\$56,000 / \$112,000 = .50 \text{ or } 50\%$$

The cost ratio is 50%. So, for example, if the serviceman is subject to the 35% threshold, Service Occupation Tax on the serviceman's selling price will be incurred in this instance.

Effective January 1, 1990, each serviceman is required to register with the Department and file returns remitting the tax due less a discount of 3.75% or 5% per calendar year whichever is greater unless the obligation is satisfied under the provisions of Section 140.101(f) of this Part.

(Source: Amended at 25 Ill. Reg. 4971, effective MAY 2, 1991)

Section 140.106 When Cost Ratio is 35% or Greater, Service Occupation Tax Liability Is Incurred by Servicemen on Their Selling Price

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- a) If the cost ratio between the tangible personal property transferred incident to sales of service and the serviceman's total annual gross receipts from all sales of service is 35% or greater (75% or greater in the case of servicemen transferring prescription drugs or engaged in graphic arts production), the serviceman must register and remit Service Occupation Tax. Unless a lower rate is applicable (see Section 140.101(b)), the Service Occupation Tax incurred is based upon 6.25% of the selling price of the tangible personal property transferred incident to sales of service. A serviceman may determine "selling price" in the following ways:

- 1) Separately stated selling price. If the serviceman separately states the selling price of the tangible personal property transferred incident to service on billings to service customers, then his Service Occupation Tax liability is based on that separately stated selling price. However, in no event can the Service Occupation Tax liability be based on an amount less than the serviceman's cost price of the tangible personal property being transferred. (Section 3-10 of the Act)

- 2) Fifty percent base. If the serviceman's bill to the service customer does not separately state the selling price of the tangible personal property transferred, the serviceman's Service Occupation Tax liability is based on 50% of the entire customer bill. However, in no event can the Service Occupation Tax be based on an amount less than the serviceman's cost price of the tangible personal property being transferred. (Section 3-10 of the Act)

- b) A serviceman who incurs SOT on his selling price should provide Certificates of Resale to his suppliers when purchasing tangible personal property that will be transferred to service customers.

- c) A serviceman who incurs SOT on his selling price is liable for local Service Occupation Taxes, which are based upon his location. If he fails to provide suppliers with Certificates of Resale, and instead pays tax to suppliers, the consequence could be an underpayment of local Service Occupation Tax, with resulting liabilities for tax, penalty and interest.

- d) A serviceman who incurs SOT on his selling price is authorized to claim any exemption provided for in the Service Occupation Tax. For example, he may claim the interstate commerce exemption or accept various exemption certificates from his customers (e.g., Certificates of Resale, exemption identification numbers).

- e) Service Use Tax must be collected from service customers by a serviceman who incurs SOT on his selling price and must be based upon either the separately stated selling price of the tangible personal property transferred or 50% of the entire customer bill, depending upon how it is billed to the customer. Any tax collected over this amount constitutes an overcollection of tax that must be refunded to the service customer, or if not refunded to the service customer, paid to the Department. The tax need not be separately stated on the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

service billing unless so requested by the service customer.
 f) Example. Servicemen paying 50% on selling price would include auto body shops that are at or above the 35% threshold. Their tax liability will be based upon either the separately stated selling price of the parts transferred or 50% of the entire service bill to the customer. They should provide suppliers with Certificates of Resale.

(Source: Added at 25 Ill. Reg. 497.1, effective 1/1/90)

Section 140.108 "De Minimis" Servicemen Who Incur Use Tax on Their Cost Price

a) If a serviceman's cost ratio is less than 35% for less than 75% in the case of servicemen transferring prescription drugs or engaged in graphic arts production, he is considered a "de minimis" serviceman. On and after January 1, 1990 for all de minimis servicemen, and on and after January 1, 1993 for de minimis servicemen not required to be registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, a Use Tax liability may be incurred on the cost price of the tangible personal property transferred to service customers incident to his sales of service. Examples of servicemen that are not required to be registered under Section 2a of the Retailers' Occupation Tax Act include barbers or seamstresses making no "over-the-counter" retail sales but who have obtained resale numbers under Section 130.1410, or servicemen who include servicemen who make no taxable consumable supplies. De minimis servicemen eligible to pay Use Tax on their cost price must observe the following conditions:

1) The de minimis serviceman incurring Use Tax liability should remit Use Tax to Illinois registered suppliers at the time of purchase. If the supplier is not registered to collect Use Tax, the de minimis serviceman must register with the Department for the limited purpose of self-assessing and remitting his Use Tax liability to the Department. The de minimis serviceman should not provide Certificates of Resale to suppliers, even though he may possess a resale or registration number, because the resale exemption is not available to de minimis servicemen incurring a Use Tax liability.

2) The de minimis serviceman incurring Use Tax liability is considered to be the end user of the tangible personal property transferred to service customers. In this situation, the de minimis serviceman's customer incurs no tax liability, since the customer is not the "user" of the tangible personal property transferred to him by the serviceman. Although liability rests with a serviceman, the Department has determined that a de minimis serviceman incurring a Use Tax liability may claim exemptions predicated upon either the exempt status of his

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

customer or upon exemptions claimed by his customer, based on nontaxable uses of the tangible personal property transferred by the serviceman. These exemptions are as follows:

- A) A customer's status as an exempt entity shall "flow through" to the de minimis serviceman making the sale of service. The Department has determined that a de minimis serviceman is relieved of his Use Tax liability when making sales of service to customers who have obtained exemption identification numbers ("B" numbers) from the Department (see 86 Ill. Adm. Code 130.2005). The customer must provide its "B" number to the de minimis serviceman in order to relieve the de minimis serviceman of Use Tax liability on the sale of tangible personal property being transferred to that customer. The serviceman utilizing this flow-through may either present the customer's "B" number to his supplier in advance when making the purchase of tangible personal property that will be transferred to the customer, or, if tax was paid to the supplier, present it to his supplier along with a request that the supplier submit a claim for credit to the Department. Such a claim may also be filed by the de minimis serviceman, himself, if he has previously self-assessed the tax on that item to the Department. The Department has also determined that a de minimis serviceman incurring a Use Tax liability may claim any of the exemptions except as provided in subsection (a)(2)(C). For example, a de minimis serviceman who is not an authorized under the Service Occupation Tax Act. For instance, these exemptions would include, but are not limited to, sales to customers who are able to properly document the farm chemicals, newsprint and ink, manufacturing machinery and equipment, graphic arts machinery and equipment, pollution control, farm machinery and rolling stock exemptions. De minimis servicemen may likewise claim the interstate commerce exemption, which is more fully explained at 86 Ill. Adm. Code 130.605.
- C) The Department will apply the provisions of subsections (a)(2)(A) and (B) of this Section governing the exemptions available to de minimis servicemen incurring Use Tax to all periods in which liability has not become final or for which the statute of limitations for filing a claim has not expired. A liability does not become final until the liability is no longer open to protest, hearing, judicial review, or any other proceeding or action, either before the Department or in any court.
- D) A de minimis serviceman incurring Use Tax liability is not authorized to accept resale certificates provided by service customers who claim they will resell the tangible personal property transferred to them by the serviceman.
- E) In multi-service situations, in order for both the primary

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS

de minimis serviceman and the secondary de minimis serviceman to obtain any of the exemptions listed in subsections (a)(2)(A) and (B), the primary de minimis serviceman should provide the secondary de minimis serviceman with the proper documentation certifying the exemption.

3) The de minimis serviceman incurring Use Tax liability is not authorized to collect "tax" from service customers. The basis for this prohibition is that the de minimis serviceman, not the customer, is deemed to be the end user of the tangible personal property transferred. In this situation, the service customer incurs no tax liability. However, in this situation, the de minimis serviceman may collect "reimbursement" for his tax liability from the customer. If reimbursement is sought and appears as a separate item on the bill, it must clearly be identified as "reimbursement" for the serviceman's Use Tax liability, and not as a "tax." Any amount collected as a "tax" in this situation constitutes an overcollection that must be refunded to the customer or, if not refunded to the customer, paid to the Department.

4) A de minimis serviceman incurring Use Tax liability must remit Use Tax on all sales of service for a given fiscal year. He cannot utilize other methods of determining his Service Occupation Tax liability on a transaction by transaction basis. However, use of a transaction by transaction basis for determining tax liability was authorized for periods from January 1, 1990 through December 31, 1992.

5) For special rules on multi-service transactions, see Section 140.145 of this Part.

b) If a serviceman pays Use Tax to his suppliers in the expectation that his cost ratio will be less than 3% (or less than 75%, if applicable), but the actual ratio is 3% or more (75% or more, if applicable), the serviceman would be able to take credit for taxes paid to his supplier but would still be liable for Service Occupation Tax (including applicable local taxes). The serviceman may also be liable for penalties and interest. He should register with the Department immediately and begin remitting Service Occupation Tax on his selling price.

c) Even though a serviceman meets the de minimis threshold and is otherwise eligible to pay Use Tax on the cost price of the tangible personal property transferred to service customers, he can nevertheless register with the Department and pay Service Occupation Tax as explained in either Section 140.106 or 140.109.

d) Example of de minimis serviceman paying Use Tax. An unregistered printer contracts to print wedding invitations. The printer has determined that his cost ratio falls below the 75% threshold. The entire service bill is \$200. The printer's cost price of the paper and ink transferred to the customer is \$75. If the printer is not

required to be registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, he can remit Use Tax to his Illinois-registered supplier. If his supplier is not registered to collect the Use Tax, he may remit it directly to the Department, on the cost price of \$75. The printer may not collect "tax" from his customer. The printer may not show "tax" on his bill to the customer. However, the printer may collect "reimbursement" from his customer as provided in subsection (a)(3) of this Section.

(Source: added, at 25 Ill. Reg. 497.1, effective 4/9/91)

Section 140.109 "De Minimis" Servicemen Who Incur Service Occupation Tax on Their Cost Price

a) If a serviceman is below the 3% threshold (or under the 75% threshold for servicemen transferring prescription drugs or engaged in graphic arts production) but is otherwise required to be registered as a retailer under Section 2a of the Retailers' Occupation Tax Act because he incurs Retailers' Occupation Tax liability with respect to a portion of his sales, he does not incur a Use Tax liability based on his cost price if items transferred incident to service. Rather, except as provided in subsection (b), on and after January 1, 1993, he incurs and must remit Service Occupation Tax (including local taxes) on his cost price of the tangible personal property transferred incident to sales of service. Such de minimis servicemen include pharmacists transferring prescription drugs and also making over-the-counter sales of non-prescription drugs. Also, included would be repairmen transferring parts incident to service and also selling parts over-the-counter, or hair stylists transferring hair products incident to service and also making over-the-counter sales of shampoo and other hair care products. As a result of incurring Service Occupation Tax on his cost price, a de minimis serviceman is subject to the following conditions:

1) A de minimis serviceman incurring Service Occupation Tax liability on his cost price should provide Certificates of Resale to his suppliers when purchasing tangible personal property that will be transferred to service customers.

2) A de minimis serviceman incurring Service Occupation Tax liability on his cost price is also liable for local Service Occupation Taxes, which are based upon his location. If he fails to provide suppliers with Certificates of Resale and instead pays tax to suppliers, the consequence could be an overpayment of local tax to the supplier's location and an underpayment of local Service Occupation Tax to the serviceman's location, with accompanying penalties and interest.

3) A de minimis serviceman incurring Service Occupation Tax liability on his cost price is authorized to claim any of the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

various exemptions provided for in the Service Occupation Tax. For example, he may claim the interstate commerce exemption or accept various exemption certificates from his customers (e.g., he can accept Certificates of Resale).

- 4) Service Use Tax must be collected from service customers by a de minimis serviceman incurring Service Occupation Tax liability on his cost price and must be based upon the serviceman's corresponding c.s. price of the tangible personal property transferred. Any tax collected over this amount constitutes an overcollection of tax that must be refunded to the service customer, or if not refunded to the service customer, paid to the Department. The tax need not be separately stated on the service billing unless so requested by the service customer.
- 5) A de minimis serviceman incurring Service Occupation Tax liability on his cost price must remit Service Occupation Tax on all taxable sales of service for a given fiscal year. He cannot utilize other methods of determining his Service Occupation Tax liability on a transaction by transaction basis.

Even though a serviceman meets the de minimis threshold and is otherwise eligible to pay Service Occupation Tax on his cost price, he can nevertheless opt to pay Service Occupation Tax on the selling price of the tangible personal property transferred to service customers as explained in Section 140.106.

- c) Example of de minimis serviceman incurring Service Occupation Tax on cost price. An air conditioning repairman making repairs to window units also makes over-the-counter sales of parts to customers. He is under the annual 35¢ cost ratio. He makes a repair to a window unit for which he charges \$85. The cost price of the parts transferred incident to the repair total \$25. The repairman should provide a Certificate of Resale to his supplier and remit Service Occupation Tax, including local taxes, on the \$25. He is required to collect Service Use Tax from his customer on the \$25.

(Source: Amended at 25 Ill. Reg. 497.1, effective 4/1/79.)

Section 140.110 Example of Methods Used by Servicemen to Determine Liability Presumption that Tax Applies (Repeated)

An auto mechanic contracts to repair a customer's automobile. In this example, the serviceman's entire bill to the customer is \$500. Labor costs account for \$300 of the total, and the serviceman's cost price of parts transferred totals \$100. The selling price of the parts, if separately stated, would be \$200. The following chart represents the manner in which this serviceman might incur tax under the different methods discussed in Sections 140.106, 140.108 and 140.109.

- a) Registered Serviceman

NOTICE OF ADOPTED AMENDMENTS

	Cost Price	Selling Price	Gross Receipts	Service Occupation Tax Base
Separately Stated	\$100	\$200	\$500	\$200 (Selling Price)
Not Separately Stated	\$100	-0-	\$500	\$250 (1/2 of gross receipts)
De Minimis (paying SOT on cost price)	\$100	\$200	\$500	\$100 (Cost Price)

- b) De minimis serviceman not required to be registered as a retailer under Section 2a of the Retailers' Occupation Tax Act.

Cost Price	Selling Price	Gross Receipts	Service Occupation Tax Base
\$100	\$200	\$500	**

** (Not subject to Service Occupation Tax if not required to be registered as a retailer under Section 2a of the Retailers' Occupation Tax Act. Subject instead to Use Tax on \$100, see Section 140.108.)

(Source: Added at 25 Ill. Reg. 497.1, effective 4/1/79.)

Section 140.125 Examples of Nontaxability

The tax does not apply to:

- a) sales of intangible personal property;
- b) sales of real property;
- c) sales of personal services as such;
- d) sales of tangible personal property which come within the protection of the Commerce Clause of the Constitution of the United States (see Subpart E of this part);
- e) personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (Section 3-5(l) of the Act);
- f) purchases of tangible personal property where the serviceman gives a

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

void-exemption-certificate-to-his-supplier:

- f) the retail selling of tangible personal property which is taxable under the Retailers' Occupation Tax Act [35 ILCS 120] or the Use Tax Act [35 ILCS 105];
- g) a sale of tangible personal property for the purpose of resale apart from the purchaser's engaging in a service occupation, made in compliance with Section 2c of the Retailers' Occupation Tax Act (Section 2 of the Act);
- h) sales of tangible personal property as an incident to sales of service:

- 1) to or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes (Section 2(c) of the Act), in accordance with the provisions of 86 Ill. Adm. Code 130.2005, which is effective as if fully set forth in this subsection (h)(1);
- 2) to or by any corporation, society, association, foundation or institution operated primarily for the recreation of persons aged 55 years or older which has no compensated officers or employees, in accordance with the provisions of 86 Ill. Adm. Code 130.2005, which is effective as if fully set forth in this subsection (h)(2) (Section 2(c) of the Act);
- 3) to or by any governmental body (Section 2(c) of the Act), in accordance with the provisions of 86 Ill. Adm. Code 130.2055 and 130.2080, which are effective as if fully set forth in this subsection (h)(3);

- 4) ~~by any corporation, society, association, foundation or institution organized and operated as a not-for-profit-service enterprise for the benefit of persons aged 65 years or older, only to the extent of purchases of personal property not purchased by the enterprise for the purpose of resale by the enterprise (Section 2 of the Act);~~

- 45) to a not-for-profit Illinois county fair association for use in conducting, operating or promoting the county fair (Section 3-5(2) of the Act);

- 56) to any not-for-profit arts or cultural organization that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations, such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. Effective August 6, 1999, as amended by P.A. 91-439, this exemption applies to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USC 501) and that is organized and

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

~~operated for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, visual arts organizations and media arts organizations (Section 3-5.2 of the Act).⁷~~

~~77) In order to qualify for exemption, all the above listed organizations (except those described in subsection (b)(5)) must have been issued an active exemption identification number by the Department.~~

- i) the sale, employment and transfer of such tangible personal property as newsprint and ink for physical incorporation into newspapers or magazines;
- j) the incorporation of tangible personal property into real estate by a construction contractor, which activity constitutes a "taxable use" under the Retailers' Occupation Tax Act and the Use Tax Act, rather than the carrying on of a service occupation;
- k) the sale, employment and transfer, as an incident to a sale of service, of such tangible personal property as pollution control facilities and low sulphur dioxide coal fueled devices, in accordance with the provisions of 86 Ill. Adm. Code 130.335, which are effective as if fully set forth in this subsection (k);
- l) sales of stock tonics, serums and other medicinal products to veterinarians for retransfer as an incident to service in caring for farm animals that are to be sold or the products of which are to be sold;
- m) sales of sprays and farm chemicals as an incident to service by persons engaged in the service occupation of spraying crops or applying farm chemicals for others, in accordance with the provisions of 86 Ill. Adm. Code 130.1955, which are effective as if fully set forth in this subsection (m);

- n) sale of either new or used farm machinery, equipment or replacement parts transferred as an incident to a sale of service for use in production agriculture or for use in State estate or federal agricultural programs, in accordance with the provisions of 86 Ill. Adm. Code 130.305, which are effective as if fully set forth in this subsection (n);

- o) a sale or transfer of machinery and equipment used primarily in the process of manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and of producing machines, tools, dies, jigs, patterns, gauges or similar items of no commercial value on special

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- order--for--a-particular-purchase; when-the-machinery-or-equipment-is produced-by-the-vendor--thereof--for-the--manufacturer--or--the manufacturer's--lessor--or-special-order-in-such-a-way-as-to-have-made the applicable tax is a service occupation tax or service use tax, rather than retailers' occupation tax or use tax. (Section 2 of the Act) (Amended by Public Act 87-876, effective January 1, 1993.) The transfer of standard or stock parts in the repair of qualifying exempt manufacturing machinery and equipment is not exempt;
- t) through August 12, 1999, a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing or other processes or defined in Major Group 27 of the U.S. Standard Industrial Classification Manual, is exempt from the Act; however, if the sale or transfer of such machinery and equipment applies to a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing, including ink jet printing, by one or more of the processes as described in Groups 323110 through 323122 of Subsector 323, Groups 51110 through 511199 of Subsector 511 and Group 512230 of Subsector 512 of the North American Industry Classification System published by the United States Office of Management and Budget, 1997 edition, in accordance with the provisions of 86 Ill. Adm. Code 130.325, which are effective as if fully set forth in this subsection (p). (Sections 3-5 and 3-30 of the Act);
- q) sales of oil field exploration, drilling and production equipment and individual replacement parts, in accordance with the provisions of 86 Ill. Adm. Code 130.345, which are effective as if fully set forth in this subsection (q) (Section 3-5(10) of the Act) costing-the-purchase-price \$950-or-more;
- r) sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment and repair parts, in accordance with the provisions of 86 Ill. Adm. Code 130.350, which are effective as if fully set forth in this subsection (r) (Section 3-5(12) of the Act) costing-the-purchase-price \$250-or-more;
- s) a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce, in accordance with the provisions of 86 Ill. Adm. Code 130.340, which are effective as if fully set forth in this subsection (s). Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Sections 2(d), 2(e) and 2(f) of the Act);
- t) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce, in accordance with the provisions of 86 Ill. Adm. Code 130.340, which are effective as if fully set forth in this subsection (t). Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340. (Sections 2(d), 2(e) and 2(f) of the Act);
- u) the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale (Section 2(f) of the Act);
- v) sales by teacher-sponsored student organizations affiliated with Illinois elementary and secondary schools, in accordance with the provisions of 86 Ill. Adm. Code 130.206, which are effective as if fully set forth in this subsection (v) (Section 3-5(6) of the Act);
- w) sales of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States or any foreign country and bullion, which shall mean gold, silver or platinum in a bulk state with a purity of not less than 980 parts per 1,000. In no circumstance shall items sold as jewelry or mounted for wear as jewelry qualify for this exemption (Section 3-5(4) of the Act);
- x) sales of modified or custom software are exempt. Sales of canned software in a service transaction are ~~would-be~~ subject to tax. Computer software means all types of software including operational, application, utilities, compilers, templates, shells and all other forms. Software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. The sale at retail or transfer of canned software intended for general or repeated use is taxable, including the sale of software which is

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(19) of the Act);

bb) beginning July 20, 1999, game or game birds purchased incident to a sale of game at:

1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);

2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or

3) a hunting enclosure approved through rules adopted by the Department of Natural Resources (Section 3-5 of the Act);

cc) fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers (Section 3-5(8) of the Act);

dd) proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed (Section 3-5(9) of the Act);

ee) photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, as photoprocessing is defined in Section 3-15 of the Act, and including photoprocessing machinery and equipment purchased for lease (Section 3-3(1) of the Act);

ff) until May 31, 2000, horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

subject to manufacturer licenses restricting the use or reproduction of the software. Tax applies to the entire charge made to the customer, including charges for all associated documentation and materials. Charges for updates and maintenance of software are considered to be sales of software. Charges for training, telephone assistance, installation and consultation are exempt if they are separately stated from the selling price of software. For purposes of this subsection, the provisions of 86 Ill. Adm. Code 130.193 are effective as if fully set forth in this subsection (1x):

y) sales of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(14) of the Act);

z) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased for donation, and a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(18) of the Act);

aa) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes (Section 3-5(15) of the Act);

ga) until January 1, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act in accordance with the provisions of 86 Ill. Adm. Code 130.2011, which are effective as fully as if set forth in this subsection (ga) (Section 3-5(16) of the Act);

hh) until January 1, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act, in accordance with the provisions of 86 Ill. Adm. Code 130.2011, which are effective as fully as if set forth in this subsection (hh) (Section 3-5(17) of the Act);

ii) aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code, in accordance with the provisions of 86 Ill. Adm. Code 130.351, which are effective as fully as if set forth in this subsection (ii) (Section 3-7 of the Act);

jj) effective August 20, 1999, sales of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, a "corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. (Section 3-5 of the Act) Exemption certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see 86 Ill. Adm. Code 130.2005), such entity's tax exemption identification number, and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and made available to the Department for inspection or audit;

kk) food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicine, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V] who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [210 ILCS 45] (Section 3-5(13) of the Act);

ll) beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (ll) does not apply to fundraising events;

1) for the benefit of private home instruction; or

2) sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity (Section 3-5 of the Act). For purposes of this subsection, the provisions of 86 Ill. Adm. Code 130.2009 are effective as if fully set forth in this subsection (11);

mm) of jet-fuel and petroleum products sold to and used in the conduct of the business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act [20 ILCS 655], provided that the business imposed under Section 9-222.1 of the Public Utilities Act [220 ILCS 5/9-222.1] (Section 12 of the Act, referencing Section 11.1 of the Retailers' Occupation Tax Act, 35 ILCS 120/11.1), high impact service facilities qualifying under the Act and seeking the exemption for such

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

jet fuel and petroleum products shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemption for jet fuel and petroleum products described in this subsection. The certification of eligibility issued to the high impact service facility by the Department of Commerce and Community Affairs for exemption shall be presented by the high impact service facility to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted, together with a certification by the high impact service facility that such jet fuel and petroleum product is exempt from taxation under Section 9-222.1 of the Retailers' Occupation Tax Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order. (Section 11 of the Act) (Section 12 of the Act, rewording Section 11 of the Retailers' Occupation Tax Act [35 ILCS 120/11]).

(Source: Amended at 25 Ill. Reg. 4971 - effective 1/1/93)

Section 140.126 Taxation Exemption of Food, Drugs and Medical Appliances

- a) Food for human consumption which is sold or transferred by a serviceman as an incident to a sale of service is generally subject to the high rate of tax (6.25%) if it is prepared for immediate consumption or is sold for consumption on the premises of the sale. However, effective January 1, 1993, food prepared for immediate consumption and transferred incident to a sale of service by an entity licensed under the Hospital Licensing Act or the Nursing Home Care Act shall be subject to tax at the rate of 1%. In addition, effective August 13, 1999, the 1% rate applies to food prepared for immediate consumption and transferred incident to a sale of service by an entity licensed under the Child Care Act of 1969. Food which is not prepared by the serviceman for immediate consumption or not sold for consumption on the premises of the sale and which is transferred as an incident to a sale of service is subject to the lower rate of 1% ~~rate (1%) of tax~~ (see 86 Ill. Adm. Code 130.310(b)(6)).
- b) As provided at 86 Ill. Adm. Code 130.310, which is effective as if fully set forth in this subsection (b), prescription ~~Prescription~~ and non-prescription medicines, ~~drugs, and~~ medical appliances, medications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, are subject to the low 1% rate ~~1% of tax~~ of tax.
- c) If a serviceman purchases tangible personal property at retail from an unregistered out-of-State supplier that he does not transfer to service customers, but that he instead uses or consumes, he must self-assess Use Tax on that tangible personal property and remit Use

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Tax to the Department is--purchased at retail--from an unregistered out-of-State retailer. ~~Use Tax must be self-assessed and paid directly to the Department.~~ The rate is 6.25% for general merchandise and 1% for food, drugs and medical appliances. (See Part 150, Use Tax.) Similarly, if a de minimis serviceman paying Use Tax (see Section 140.108) is below the 3% threshold and, therefore, pays tax to his supplier (see 140.010; Service Occupation Tax), he must nevertheless self-assess--and remit tax--directly to the Department when makes purchases purchasing of tangible personal property that he will transfer to service customers from suppliers who do not charge Illinois tax, the de minimis serviceman must register to self-assess and remit Use Tax directly to the Department. This would be the case, for example, when purchases were made from out-of-State suppliers not registered to collect Illinois tax.

- 1) Example: A doctor purchases tongue depressors from an out-of-State supplier who does not collect Illinois tax. Since tongue depressors these are not medical appliances transferred to the patients, but rather are supplies used by the doctor, they are subject to Use Tax (the 6.25% rate), which must be self-assessed and remitted to the Department. The same would be true if the items were purchased from an Illinois retailer who did not charge tax for some reason.
- 2) Example: A dentist purchases gold for dental fillings. If he is at or above the 3% threshold, he should purchase the gold with a resale certificate and pay Service Occupation Tax on his selling price at a 1% rate (Section 140.106 ~~see 140.010; Service Occupation Tax~~). If he is below the 3% threshold, he may, as appropriate, should pay either Use Tax or Service Occupation Tax at the 1% rate on his cost price as described in Section 140.108 or 140.109 to his supplier or self-assess and pay tax to the Department at the 1% rate based upon his purchase price. If he is a de minimis serviceman incurring a Use Tax liability on his cost price and purchases gold from out-of-State suppliers, he must self-assess and remit the Use Tax to the Department. If he is a de minimis serviceman incurring Service Occupation Tax liability on his cost price, he should provide his suppliers with Certificates of Resale.
- 3) Example: An optometrist makes sales of prescription glasses and non-prescription sunglasses. The sales of the non-prescription sunglasses are retail sales of general merchandise subject to Retailers' Occupation Tax at the 6.25% rate on the selling price. The prescription eyeglasses, however, are medical appliances subject to the 1% rate. If the optometrist is at or above the 3% threshold, he should purchase the eyeglass components with a resale certificate and pay Service Occupation Tax on his selling price at a 1% rate (see Section 140.106). If he is below the 3% threshold, he may pay Service Occupation Tax at the 1% rate on either his cost price as described in Section

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

140.109, or on his selling price as described in Section 140.106. If he is a de minimis serviceman incurring Service Occupation Tax liability on his cost price, he should provide his suppliers with Certificates of Resale. If the optometrist purchased the lenses from an optical lab which ground the lenses to his special order prescription, a multi-service situation would exist. See Section 140.145. Service Occupation Tax for further information. ~~The proper tax base would either be the optometrist's stated selling price of the completed set of eyeglasses or, if the optometrist is below the 3% threshold, the cost price to the optometrist of the lenses and frames.~~

(Source: Amended at 25 Ill. Reg. 4971-2, effective 4-1-96.)

Section 140.135 Sales of Drugs and Related Items, to or by Pharmacists (Repealed)

~~Pharmacists incur Service Occupation Tax liability on the selling price of the pharmaceutical products, containers and other tangible personal property which they transfer as an incident to rendering service in filling prescriptions. The rate of tax is 1%.~~

(Source: Repealed at 25 Ill. Reg. 4971-2, effective 4-1-96.)

Section 140.145 Multi-Service Situations

a) Transactions between de minimis servicemen each paying Use Tax. Effective for sales made on and after August 14, 1996, if a primary de minimis serviceman who incurs a Use Tax liability on his cost price (described in Section 140.108 of this Part) subcontracts service work to a secondary de minimis serviceman who also incurs a Use Tax liability on his cost price, the primary de minimis serviceman does not incur a Use Tax liability if the secondary de minimis serviceman has paid, or will remit, Illinois Use Tax on his cost price of any tangible personal property transferred to the primary serviceman and certifies that fact in writing to the primary de minimis serviceman (Section 2a of the Act). For example, a de minimis dentist paying Use Tax on his cost price who purchases dentures from a de minimis dental laboratory also paying Use Tax on its cost price will not incur Use Tax liability if the de minimis dental laboratory pays, or agrees to remit, Illinois Use Tax on its cost price of the items used to fabricate the dentures, and certifies this fact in writing to the de minimis dentist.

b) The certification provided by the secondary de minimis serviceman described in subsection (a) shall contain the address of, and be signed and dated by, the secondary de minimis serviceman. It shall

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

certify that the secondary de minimis serviceman has paid, or will remit, Illinois Use Tax on the cost price of the tangible personal property transferred to the primary de minimis serviceman. This certification may appear on the invoice to the primary de minimis serviceman. The primary de minimis serviceman shall retain this certification in his books and records as provided in Section 140.701 of this Part.

c) Multi-service transactions between registered servicemen, primary servicemen who are registered with the Department, regardless of whether they are de minimis servicemen paying Service Occupation Tax on their cost price or servicemen paying tax on their selling price, should provide Certificates of Resale to secondary servicemen who are also registered.

d) Multi-service transactions between registered and unregistered servicemen each located in Illinois. If a registered primary serviceman located in Illinois farms out service work to a secondary serviceman located in Illinois who is not registered and has opted to incur Use Tax as described in Section 140.108 of this Part, tax will be incurred and remitted to the Department at two levels. The secondary de minimis serviceman will pay Use Tax to his supplier on the tangible personal property transferred to the primary serviceman. Normally, the primary serviceman would provide a Certificate of Resale to the secondary serviceman to whom he farms out work, for the tangible personal property he transfers to his service customers. However, in this instance, the unregistered secondary serviceman is not authorized to accept Certificates of Resale from his customers (see Section 140.108(a) of this Part). As a result, the registered primary serviceman cannot provide a Certificate of Resale to the unregistered secondary serviceman. When the registered primary serviceman makes a sale of service to his service customer, he will incur Service Occupation Tax on either his selling price of his cost price. Because, in these instances, the two servicemen are either not both registered or unregistered, tax will be paid twice to the Department.

e) Servicemen engaging in multi-service transactions are urged to utilize one of the methods described in subsection (a) or (c) of this Section. Use of either of these methods prevents the likelihood of tax being incurred by both servicemen, as described in subsection (d) of this Section.

f) Except as provided in subsection (a) of this Section, when a primary serviceman purchases tangible personal property from a secondary serviceman, the primary serviceman shall determine his cost price either by using the separately stated selling price of tangible personal property set forth on the invoice from the secondary serviceman or, if no selling price is separately stated, 50% of the total invoice including labor and service charges, in the absence of proof (e.g., the secondary serviceman's purchase invoices showing his cost price) of the consideration paid by the secondary serviceman for

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

the purchase of such property.

(Source: Amended at 25 Ill. Reg. 409.1-2 effective _____)

SUPPORT B: DEFINITIONS

Section 140.201 General Definitions

- a) "Cost price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier, but does not include charges which are added to prices by suppliers on account of the purchaser's tax liability under the Act or the Service Use Tax Act [35 ILCS 110]. Except as provided in Section 140.145(a), when a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property. "Cost--Price" means all the consideration actually received by the supplier and paid by the serviceman, whether such consideration be paid in money or otherwise, including cash, credits or services. (Section 2 of the Act)
- b) "De minimis serviceman" means a serviceman whose annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 3% (75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production) of the aggregate annual total gross receipts from all sales of service. See Section 140.105 for the method used to determine de minimis status. Department means the Department of Revenue.
- c) "Department" means the Illinois Department of Revenue.
- d) "Person" means any natural individual, firm, partnership, association, joint stock company, limited liability company, joint venture, public or private corporation, and any receiver, executor, trustee, conservator or other representative appointed by order of any court.
- ed) "Sale at Retail" means "sale at retail" as defined in Section 1 of the Retailers' Occupation Tax Act [35 ILCS 120] (41st Rev. Stat. 1907-eh: 140-par: 400).
- fe) "Sale of Service" means any transaction except:
 - 1) a retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act (Section 2(a) of the Act);
 - 2) a sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act (Section 2(b) of the Act);

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 3) a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or for or by any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers and employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under the Act only if the limited liability company is organized and operated exclusively for educational purposes. However, effective July 1, 1987, this exemption will not apply unless the entities noted above have an active exemption identification number issued by the Department (Section 2(c) of the Act);
- 4) effective September 1, 1968, a sale or transfer of tangible personal property as an incident to the rendering of service for interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce. Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Section 2(d) of the Act);
- 5) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce. Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Section 2(d-1) of the Act);

6) the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale or (Section 2(f) of the Act);

- 7) a sale or transfer of machinery and equipment used primarily in the process of manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a the service occupation and of similar items of no commercial value on special-order-for-a-particular-purchase-when-the-machinery-or-equipment-is-produced-by-the-seller-thereof-in-such-a-way-as-to-have-made the lessor-on-special-order-in-such-a-way-as-to-have-made the applicable tax is a Service Occupation Tax or Service Use Tax, rather than Retailers' Occupation Tax or Use Tax (Section 2(e) of the Act);
- 8) at the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35% (75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production) of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act (Section 2(g) of the Act);
- 9) the repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property as the shipper or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

consignor of such property to a destination outside Illinois, for use outside Illinois (Section 2(d-2) of the Act);

- 10) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois (Section 2(d-3) of the Act).

g) "Selling price" means the consideration for a sale valued in money, whether received in money, or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges that appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Act. For purposes of calculating the serviceman's tax base, the selling price shall not be less than the cost price to the serviceman of the tangible personal property transferred to the service customer.

hf) "Serviceman" means any person who is engaged in the occupation of making sales of service.

1g) "Supplier" means any person who makes sales of tangible personal property to servicemen for transfer the property to a service customer incident to sales of service.

h) "Selling price" means the price set by the serviceman for the tangible personal property transferred in a service transaction; it includes all the consideration actually received by the serviceman for such property including cash, credits or services, whether paid in money or otherwise; in no event shall the selling price be less than the cost price.

(Source: Amended at 25 Ill. Reg. 4971, effective 1/1/81.)

SUBPART C: BASE OF THE TAX

Section 140.301 Cost Price

- a) "Cost Price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier; but does not include charges which are added to prices by suppliers on account of the purchaser's tax liability under this Act or the Service Use Tax Act [35 ILCS 110] (41st Rev. Stat. 1979, ch. 120, pars. 439-31 et seq.). Except as provided in Section 140.145(a), when a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the subcontractor's charges to the subcontractor for the purchase of such property.

b) The following listing describes the taxation of various charges that may be made by servicemen. Department's interpretation as to whether certain items may or may not be deducted in the computation of the cost price paid by a serviceman to his supplier.

- 1) Transportation and Delivery Charges
 - A) Transportation and delivery charges are considered to be freight, express, mail, truck or other carrier, conveyance or delivery expenses. Many times these charges are designated as shipping and handling charges.
 - B) Whether amounts charged by a serviceman to his customers in order to secure delivery of the property to his customers are taxable depends upon the method used by the serviceman to calculate his tax liability. Delivery charges made by a de minimis serviceman paying either Use Tax (see Section 140.108) or Service Occupation Tax (see Section 140.109) on his cost price are not taxable, since tax in these instances is incurred only on the cost price of the tangible personal property transferred to the service customer incident to a sale of service. If, however, the serviceman remits Service Occupation Tax on his selling price, as provided in Section 140.106, delivery charges made to his customer may be taxable. If the serviceman calculates his tax liability on the basis of the separately stated selling price of tangible personal property transferred to service customers, such delivery charges are not taxable. However, if the serviceman does not separately state the selling price of the tangible personal property transferred to the customer and, rather, calculates his liability on 50% of the entire service bill, delivery charges will become part of the tax base. Where the supplier and the serviceman contract for the delivery of the tangible personal property to the serviceman for a lump sum charge including transportation or delivery charges and a charge for the property itself, the entire amount constitutes the cost price.
- C) Incoming Transportation Costs - Servicemen Who Incur Service Occupation Tax on Their Selling Price. If the supplier and

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

the serviceman contract separately for such transportation or delivery charges, but not including them in a lump sum with the amount for the property itself, such transportation or delivery charges are not a part of the cost price. Incoming freight or other delivery expense incurred by a serviceman remitting Service Occupation Tax on his selling price to the supplier in acquiring the property for sale may not be deducted from the selling cost price charged by the serviceman supplier for the tangible personal property transferred to the customer to the serviceman even if this type of delivery expense is priced and billed separately on the bill to the customer, by the supplier to the serviceman. It represents a serviceman's cost of doing business, which is never deductible from gross receipts subject to tax.

- D) Incoming Transportation Costs - De Minimis Servicemen Who Incur Either Use Tax or Service Occupation Tax on Their Cost Price. In contrast to servicemen paying tax on their selling price, de minimis servicemen generally pay Use Tax on the cost price of the tangible personal property they acquire for transfer to service customers. Whether de minimis servicemen paying Use Tax to their suppliers are subject to tax on shipping charges made by their suppliers depends upon whether the supplier and the de minimis serviceman have a separate contract for delivery charges and whether the delivery charges are actually reflective of the costs of shipping, transportation and delivery. If such charges are shown to be separately contracted for and reflective of actual shipping costs, they are not considered part of the cost price of the tangible personal property purchased by the serviceman. The same rule applies to de minimis servicemen paying Service Occupation Tax on their cost price. (See 86 Ill. Adm. Code 130.415.)
- 2) Finance or Interest Charges -- Penalties -- Discounts
 - A) Where any tangible personal property is sold by a supplier to a serviceman under an installment contract, the interest or finance charges on account of credit so extended are not considered to be a part of the cost price. The books and records of suppliers must clearly reflect such finance or interest charges. In the absence of an adequate showing of what such charges actually are, the Department will presume that such charges are not in excess of like charges which are customarily made in connection with similar installment sales.
 - B) If a "penalty" is added to the base cost price in the event that the serviceman does not pay such price within a specified time and if such penalty is paid to the supplier, such "penalty" is considered to be a part of the cost price.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- c) If a discount is allowed for a payment in cash within a stated period of time, any amounts realized by suppliers through failure of a serviceman to take advantage of such a discount will be considered to be a part of the cost price. Conversely, if the supplier allows the serviceman a discount from the base cost price (such as a discount for prompt payment) and the serviceman avails himself of the discount so that the supplier does not receive any receipts from that source, the amount of such discount is not a part of the cost price.

- 3) Maintenance Agreements. If a serviceman enters into an agreement to provide repair service for a particular piece of equipment machine for a stated period for a predetermined fee, the serviceman shall pay Use Tax tax to his supplier (or to the Department if the supplier is not registered to collect tax) on the cost price of tangible personal property purchased for transfer by the serviceman transferred incident to the completion of the maintenance agreement (see Section 2 of the Act and Section 3-75 of the Use Tax Act). However, a serviceman will incur no tax liability on repairs made under a maintenance agreement for a person that is able to claim an exemption, either because of that person's exempt status (e.g., the person possesses an exemption identification number issued by the Department, such as the Federal or State government) or because the tangible personal property being repaired is exempt from tax (e.g., due to the manufacturing machinery, graphic arts or pollution control equipment exemptions).

(Source: Amended at 25 Ill. Reg. 4074, effective March 2, 1981.)

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

Section 140.901 Written Opinions

- a) Taxpayers must not rely on verbal opinions from Department employees, but will be protected only if the opinion from the Department is in writing. For Department rules concerning the binding effect of Private Letter Rulings and General Information Letters, see 2 Ill. Adm. Code 1200. Even when the opinion ceases to have any effect, if the law is changed in any pertinent respect by the General Assembly or if a pertinent change in the interpretation of the law is made by a Court decision or by some change in the Department's Regulations, whether such change is accomplished by means of a new regulation or by means of a revision of an existing Regulation.
- b) For Department rules concerning the rescission of Private Letter Rulings, see 2 Ill. Adm. Code 1200. The Department may also rescind outstanding written opinions or rulings issued prior to any given

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- specified date by issuing a bulletin or some other form, and general public notice to that effect. "Regulation" means any Department rule or as used in this Part herein, "Regulation" means any Department rule or regulation of general application, whether called a "Rule", a "Regulation", an "Article", a "Section", a "Part", or something else.

(Source: Amended at 25 Ill. Reg. 4074, effective March 2, 1981.)

SUBPART J: COLLECTION OF THE TAX

Section 140.1001 Payment of Tax to the Supplier

- a) A de minimis serviceman who incurs Use Tax as described in Section 140.108 of this Part, should pay the tax to his Illinois-registered suppliers on the cost price of the tangible personal property transferred to his service customers. However, if for any reason the serviceman does not pay tax to his supplier (for example, his supplier is an out-of-State supplier not registered to collect the tax), the serviceman is required to register to remit Use Tax to the Department. A serviceman who purchases tangible personal property from his supplier for resale as an incident to a sale of service must pay the amount of the Service Occupation Tax to his supplier unless he gives his supplier a valid certificate of exemption. (See Subpart M of this Part.)

- b) In contrast, however, all servicemen paying Service Occupation Tax to the Department, as provided in Sections 140.106 and 140.109 of this Part, should provide suppliers with Certificates of Resale (see Subpart M of this Part) for the tangible personal property transferred to service customers incident to sales of service. Failure of a serviceman remitting Service Occupation Tax to provide a properly executed Certificate of Resale creates a presumption that the sale is not for resale, and is therefore taxable.

(Source: Amended at 25 Ill. Reg. 4074, effective March 2, 1981.)

Section 140.1005 Receipt to be Obtained for Tax Payments

A serviceman who pays tax the Service Occupation Tax to his supplier may request and obtain from the supplier a receipt for the amount of tax Service Occupation Tax paid. The receipt may be in the form of a separate itemization of the tax on the supplier's sales invoice or other document covering the sale. The receipt should always indicate the amount, description and selling price of the tangible personal property to which the tax applies. Suppliers must furnish such receipts on request.

(Source: Amended at 25 Ill. Reg. 4074, effective March 2, 1981.)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section 140.1010 Payment of Tax Directly to the Department (Repealed)

~~If the serviceman does not pay the applicable tax to his supplier, he is required to pay the tax directly to the Department.~~

(Source: Repealed at 25 Ill. Reg. 4971-2, effective 1/1/71.)

Section 140.1015 Itemization of the Tax by Suppliers (Repealed)

~~When suppliers collect the tax from servicemen under the requirements of the Act, they must do so by adding the amount of the tax to the cost price of the tangible personal property as a separate item wherever possible. The sales invoice or other document used by the supplier must indicate the nature and quantity of tangible personal property to which the tax applies.~~

(Source: Repealed at 25 Ill. Reg. 4971-3, effective 1/1/71.)

Section 140.1025 Advertising in Regard to the Tax

A serviceman incurring Service Occupation Tax as described in Section 140.106 or 140.109 of this Part supplier, when required to collect the Service Use Occupation Tax from his service customer, may not advertise or state to the public or to any serviceman, in any manner, that he (the serviceman) this tax will assume be assumed or absorb absorbed by the supplier the tax or that it will not be added to the cost price of the property. Likewise, the serviceman supplier may not state in any manner that the Service Use Tax will be refunded (except when a bona fide refund is made when goods are returned to the supplier, or when a claim for credit is made under the provisions of the Act).

(Source: Amended at 25 Ill. Reg. 4971, effective 1/1/71.)

SUBPART M: USE OF EXEMPTION CERTIFICATES

Section 140.1305 When Purpose of Serviceman's Purchase is Unknown

a) If a the serviceman registered to remit Service Occupation Tax is unable to determine, at the time when he purchases tangible personal property, how he will ultimately dispose of such property, he may certify to give his supplier that he is buying all of such tangible personal property for resale and will thereafter account to the Department for the tax on disposing of such property on exemption certificate which shall relieve his supplier of liability for collecting the tax. However, no such certificate shall be valid

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

unless the serviceman who signs it has an active registration or resale number from the Department and includes such number in such certificate.

b) Upon the ultimate disposition of such tangible personal property by the serviceman, described in subsection (a) of this Section, he shall remit to the Department either Service Occupation Tax, including any applicable local taxes, on the selling or cost price of the tangible personal property transferred to service customers, or Use Tax for items consumed by him in conducting his business directly to the Department any tax due as a result of the actual disposition of the tangible personal property. Any tangible personal property to which the serviceman sells "over-the-counter" is subject to Retailer's Occupation Tax.

(Source: Amended at 25 Ill. Reg. 4971-2, effective 1/1/71.)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 140.1401 Claims for Credit Limitations -- Procedures

a) Limitations Upon Claims

1) Where a taxpayer under the Service Occupation Tax Act pays to the Department an amount of tax or penalty or interest not due under the provisions of the Act, either as the result of a mistake of fact or an error of law, such taxpayer may file a claim for credit with the Department. The Department cannot approve any claim for credit unless the proof submitted in support thereof clearly establishes that the claimant has borne the burden of the tax erroneously paid or that he has unconditionally repaid the amount of the tax to his vendee from whom he has collected such amount. In the latter event, the claimant must also prove that his vendee has borne the burden of such amount or has unconditionally repaid persons to whom such vendee has shifted the burden of such amount (see Service-Occupation-tax-Act, Section 17 of the Act). In addition, no credit shall be allowed for any such amount paid by or collected from any claimant unless it shall appear that the claimant has unconditionally repaid, to the purchaser, any amount collected from the purchaser and retained by the claimant with respect to the same transaction under the Service Use Tax Act. The Department cannot approve any claim for credit to the extent that the amount claimed is an amount which has been paid (voluntarily or involuntarily) in total or partial liquidation of an assessment which had become final before the claim for credit to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court. Also, all claims for credit are subject to the following statute of

NOTICE OF ADOPTED AMENDMENTS

- | 1) | <u>Heading of the Part:</u> Service Use Tax | | | | | | | | | | | | | | | | | | | | | | | |
|------------------|--|------------------|-----------------|---------|-----------|---------|-----------|---------|-----------|---------|-----------|---------|--------|---------|-----------|---------|-----------|---------|-----------|---------|-----------|---------|-----------|--|
| 2) | <u>Code Citation:</u> 86 Ill. Adm. Code 160 | | | | | | | | | | | | | | | | | | | | | | | |
| 3) | <table border="1"> <thead> <tr> <th>Section Numbers:</th> <th>Adopted Action:</th> </tr> </thead> <tbody> <tr> <td>160.101</td> <td>Amendment</td> </tr> <tr> <td>160.105</td> <td>Amendment</td> </tr> <tr> <td>160.110</td> <td>Amendment</td> </tr> <tr> <td>160.115</td> <td>Amendment</td> </tr> <tr> <td>160.120</td> <td>Repeal</td> </tr> <tr> <td>160.125</td> <td>Amendment</td> </tr> <tr> <td>160.130</td> <td>Amendment</td> </tr> <tr> <td>160.135</td> <td>Amendment</td> </tr> <tr> <td>160.150</td> <td>Amendment</td> </tr> <tr> <td>160.155</td> <td>Amendment</td> </tr> </tbody> </table> | Section Numbers: | Adopted Action: | 160.101 | Amendment | 160.105 | Amendment | 160.110 | Amendment | 160.115 | Amendment | 160.120 | Repeal | 160.125 | Amendment | 160.130 | Amendment | 160.135 | Amendment | 160.150 | Amendment | 160.155 | Amendment | |
| Section Numbers: | Adopted Action: | | | | | | | | | | | | | | | | | | | | | | | |
| 160.101 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 160.105 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 160.110 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 160.115 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 160.120 | Repeal | | | | | | | | | | | | | | | | | | | | | | | |
| 160.125 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 160.130 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 160.135 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 160.150 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 160.155 | Amendment | | | | | | | | | | | | | | | | | | | | | | | |
| 4) | <u>Statutory Authority:</u> 35 ILCS 110 | | | | | | | | | | | | | | | | | | | | | | | |
| 5) | <u>Effective Date of Amendments:</u> March 23, 2001 | | | | | | | | | | | | | | | | | | | | | | | |
| 6) | <u>Does this rulemaking contain an automatic repeal date?</u> No | | | | | | | | | | | | | | | | | | | | | | | |
| 7) | <u>Do these amendments contain incorporations by reference?</u> No | | | | | | | | | | | | | | | | | | | | | | | |
| 8) | <u>A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.</u> | | | | | | | | | | | | | | | | | | | | | | | |
| 9) | <u>Notice of Proposal Published in Illinois Register:</u> 10/27/00, 24 Ill. Reg. 15995 and 11/17/00, 24 Ill. Reg. 17009 | | | | | | | | | | | | | | | | | | | | | | | |

ADOPTED AMENDMENTS

the unpaid liability, after crediting an amount sufficient to liquidate or cancel out such unpaid liability, a new credit memorandum shall be issued for an amount representing the difference between that of the original credit found to be due and that of the liability so liquidated or paid as aforesaid, and such new credit memorandum shall be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Retailer's Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Service Use Tax Act, any local occupation or use tax administered by the Department, the Municipal-Service-Occupation-Tax-Act, the Municipal-Use-Tax-Act, the Municipal-Service-Occupation-Tax-Act, the New-Supplementary-Retailers-Occupation-Tax-Act, the County-Service-Occupation-Tax-Act, the County-Supplementary-Service-Occupation-Tax-Act, the County-Use-Tax-Act, the County-Supplementary-Use-Tax-Act, and Section 4 of the Water Commission Act of 1985, subsections (b), (c), and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act. If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded; and if such proceeding results in the issuance of an assessment which becomes final, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment, or any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Various methods used by servicemen to handle their tax liability (e.g., the de minimis methods) affect the liability, if any, of Illinois service customers. The changes proposed in these regulations stem from the same public Acts that provide authority for the changes in the Service Occupation Tax regulations (e.g., P.A. 86-905; 83-8-01, and 83-8-02).

This rulemaking amends Section 160.101 by implementing Public Act 91-870, which provides that "prepaid telephone calling arrangements" shall be treated as tangible personal property subject to Service Unit tax. Regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed, it provides the definition of "prepaid telephone calling arrangements" and what is excluded from the definition.

Information and questions regarding these adopted amendments shall be
referred to:

Jerilynn Gorden
Senior Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted amendments begins on the next page:

ILLINOIS REGENT

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT'S

TABLE 86: REVENUE,
CHAPTER I: DEPARTMENT OF REVENUE

PART 160
SERVICE USE TAX

Nature of the Tax

Kinds of Uses And Users Not Taxed

Collection Of The Service Use Tax By Servicemen

Persons Who Lease Tangible Personal Property to Exempt Hospitals

Persons Who Lease Tangible Personal Property to Governmental Bodies:

Persons who desire tangible personal property for their use (Repealed)

Special Information for Taxable Units

Registration Of Services

Registration Of Serviceman's Return

servicemen's Return Penalties, Interest And Procedures

FAMILIES, INTEREST AND PROCEDURES Incorporation Of Illinois Service

incorporation of
 Reference

Reference
Claims To Recover Erroneouslv Paid Tax--[Limitations--Procedures

Disposition Of Credit Memoranda By Holders Thereof

Disposal
Refunds

1 + 1 + 1

AUTHORITY: Implementing the Service Use Tax Act (35 U.S.C. 110) and authority under Section 2505-100 of the Civil Administrative Code of Illinois 120 ILCS 120.

SOURCE: Adopted May 21, 1962; codified at 6 Ill. Reg. 9376; amended at 9 Ill. Reg. 9619, effective June 5, 1984; amended at 11 Ill. Reg. 5322, effective May 13, 1987; amended at 11 Ill. Reg. 9363, effective May 8, 1987; amended at 13 Ill. Reg. 9399, effective June 6, 1989; amended at 15 Ill. Reg. 5811, effective April 1, 1991; amended at 18 Ill. Reg. 1111, effective May 1, 1994; amended at 20 Ill. Reg. 7015, effective May 7, 1996; amended at 21 Ill. Reg. 16219, effective December 16, 1996; amended at 24 Ill. Reg. 8111, effective May 26, 2000; amended at 25 Ill. Reg. 0111, effective May 1, 2001.

Section 160.101 Nature of the Tax

a) The Service Use Tax is a privilege tax imposed on the privilege of using, in this State, tangible personal property that is received anywhere as an incident to a purchase of service from a serviceman who is a resident of this State. "serviceman" is defined in the Act. However, if the serviceman who is not taxable under the Service Occupation Tax Act [35 ILCS 110-0] is a resident of another State, the sale of the tangible personal property elements of the sale of service occurring in Illinois, then the tax

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

imposed by the Service Use Tax Act does not apply to the use of such property in this State. Transfers of tangible personal property by de minimis servicemen who incur Use Tax as described in 86 Ill. Adm. Code 140.108 do not constitute sales of service under Section 2(a) of the Service Occupation Tax Act. As a result, customers of such de minimis servicemen do not incur Service Use Tax liability on such transfers.

- b) Any evidence that property was sold by any person for delivery to a person residing in or engaged in business in this State shall be prima facie evidence that such property was sold for use in this State.

c) Rate

- 1) The rate of the Service Use Tax after December 31, 1989, is 6.2% of the serviceman's selling price of the tangible personal property transferred by the serviceman as an incident to a sale of service.

- 2) On and after January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under the Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. (Section 3 of the Act) "Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more interstate, interstate, or international telephone calls or other telecommunications using an access number, an authorization code, or both, whether manually or electronically dialed, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. For purposes of this Section, "recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a different access number or authorization code. For purposes of this Section, "telecommunications" means that term as defined in Section 2 of the Telecommunications Excise Tax Act (35 ILCS 630). "Prepaid telephone calling arrangement" does not include an arrangement whereby the service provider reflects the amount of the purchase as a credit on an account for a customer under an existing subscription plan. (Section 3-27 of the Act)

- d) If the property that is purchased from a serviceman as an incident to a sale of service is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is nevertheless taxable under the Service Use Tax Act, the tax base cost price on which the tax is computed shall be reduced by an amount which represents a reasonable allowance for depreciation for the period of such prior out-of-State use. A "reasonable allowance for

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

depreciation" is deemed by the Department to be the amount of depreciation determined by use of the straight line method of depreciation.

- e) The date of the purchase of service is deemed to be the date of the delivery, to the user, of the tangible personal property which the serviceman transfers as an incident to a sale of service.
- f) The Service Use Tax Act complements the Service Occupation Tax Act. That is why the Service Use Tax is restricted to cases in which the property is purchased from a serviceman as an incident to a sale of service.

- g) If a serviceman incurring Service Occupation Tax Liability is required or authorized to collect the Service Use Tax (see Section 160.115 for further information), the purchaser must pay the tax to the serviceman. The Department will presume that a serviceman is required or authorized to collect the Service Use Tax if he bills tax to the service customer. Stated conversely, if an invoice from a serviceman does not show the tax, the Department will presume that the serviceman is either registered and has included the Service Use Tax in the selling price of the tangible personal property transferred or is a de minimis serviceman incurring a use tax liability, in which case there is no collection obligation on the part of the purchaser. This presumption will be overcome only where the Department has evidence that the serviceman and the service customer were both aware that the proper tax due was the Service Use Tax and that no action was taken to remit the Service Use Tax by either party to the transaction. A serviceman need not remit that part of any Service Use Tax collected by him to the extent that he is required to pay and does pay Service Occupation Tax to the Department on his sales of service involving the transfer by him of the same property, provided, however, that the amount paid to the Department is equal to or exceeds the amount collected from the service customer must then remit the Service Use Tax to the Department after reducing the amount of that tax by the amount of Service Occupation Tax which he is required to pay and does pay with respect to that property, either to a supplier or to the Department--if the purchaser receives the property as an incident to a purchase of service from a serviceman but does not pay the Service Use Tax to such serviceman, the purchaser must pay the Service Use Tax directly to the Department.

(Source: Amended at 25 Ill. Reg. 6.15, effective

Section 160.10, Definitions

- a) For definitions of terms other than "Use", "Purchased from a Serviceman", "Purchaser", "Selling Price", and "Serviceman maintaining a place of business in this State", see Section 140.201 of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140.201 +49).

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- b) "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property.

- 1) which is sold in the regular course of business or
- 2) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.

- c) "Purchaser from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.
- d) "Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.

- e) "Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act. For purposes of calculating the serviceman's tax base, the selling price shall not be less than the cost price to the serviceman of the tangible personal property transferred to a service customer.

- f) "Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman having or maintaining within this State directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State; soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State; pursuant to a contract with a broadcaster or publisher located in this state, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions; soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

banking, financing, debt debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities; being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State; having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section; pursuant to a contract with a cable television operator located in this State, advertising which is transmitted or distributed over a cable television system in this State, or engaging in activities in Illinois which would, in the state in which the service business engaging in such activities is located, constitute maintaining a place of business in that state [35 ILCS 110] (4111--Rev.--1989,--ch.--129,--par. 439-327). For the purpose of determining such state of location, the Department will look to the place at which the selling activity takes place. The seller's acceptance of the purchase order or other contracting action in making the sale is the single most important factor in determining selling location.

(Source: Amended at 25 Ill. Reg. 211.5, effective _____)

Section 160.110 Kinds of Uses And Users Not Taxed

- a) To prevent actual or likely multistate taxation, the tax shall not apply to the use of tangible personal property in this State under the following circumstances:
- 1) The use, in this State, of property acquired outside this State by a nonresident individual and brought into this State by such individual for his or her own use while temporarily within this State or while passing through this State;
 - 2) the use, in this State, of property which is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase or use of such property, to the extent of the amount of such tax properly due and paid in such other state;
 - 3) the temporary storage, in this State, of property which is brought outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State. (Section 3-45 of the Act)
- b) Since the exemptions in subsections (a)(1), (2) and (3), immediately above, do not exist as far as the Service Occupation Tax is concerned,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

in this State, of game or game birds purchased incident to a sale of service at:

- 1) *a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]),*
- 2) *an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]), or*
- 3) *a hunting enclosure approved through rules adopted by the Department of Natural Resources. (Section 3-5 of the Act)*
- g) *Beginning July 1, 1999, the Service Use Tax does not apply to the use, in this State, of fuel acquired outside of this State and brought into this State in the fuel supply tanks of locomotives engaged in freight hauling and passenger service for interstate commerce. (Section 3-5 of the Act)*
- h) *Since transfers of tangible personal property by de minimis servicemen who incur Use Tax as described in 86 Ill. Adm. Code 140.108 do not constitute sales of service under Section 2(g) of the Service Occupation Tax Act, customers of such de minimis servicemen do not incur Service Use Tax liability on such transfers.*

(Source: Amended at 25 Ill. Reg. 5015-11, effective

Section 160.115 Collection Of The Service Use Tax By Servicemen

- a) *Servicemen who incur and remit Service Occupation Tax to the Department; or servicemen who come within the definition of a "Serviceman maintaining a place of business in this State" (as set out in Section 160.105(f) of this Part and in Section 2 of the Service Use Tax Act) and who have a Service Use Tax collection obligation; and other servicemen who are authorized to voluntarily collect the Service Use Tax, shall collect the tax from users. The Service Use Tax shall be based on the selling price of the tangible personal property transferred incident to the sale of service if stated separately on the invoice from the serviceman. If not stated separately, then the tax will be imposed on 50% of the entire billing from the serviceman. However, the Service Use Tax which is collected by a de minimis serviceman who incurs Service Occupation Tax on his cost price of tangible personal property transferred incident to service, as provided at 86 Ill. Adm. Code 140.109, shall be based upon his cost price of tangible personal property transferred incident to his sales of service. For purposes of this Part, "cost price" is defined as provided in 86 Ill. Adm. Code 140.201.*
- b) *Although not required unless requested by the service customer, the Service Use Tax may be separately stated as a distinct item on the Service Bill (Section 3a of the Act).*
- ch) *If the serviceman collects does collect the Service Use Tax as a*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

and since it would therefore serve no purpose to say that the exemptions exist for Service Use Tax purposes insofar as the serviceman is merely collecting Service Use Tax to reimburse himself for Service Occupation Tax on the same property, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is Service Use Tax liability. Therefore, the exemptions in subsections (a)(1), (2) and (3) above would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no Service Occupation Tax liability on the part of the serviceman in the same transaction.

- c) *The Service Use Tax does not apply to the use, in this State, of property which is acquired outside this State by a nonresident individual who then brings the property to this State for use here, and who shall have used the property outside this State for at least 3 months before bringing the property to this State. (Section 3-60 of the Act)*
- d) *Where a business that is not operated in Illinois, but which does operate in another state, is moved to Illinois or opens up an office, plant or other business facility in Illinois, such business shall not be taxed on its use, in Illinois, of used property which such business bought outside Illinois and used outside Illinois in the operation of such business for at least 3 months before moving such used property to Illinois for use here. (Section 3-60 of the Act)*
- e) *The Service Use Tax does not apply to the use of tangible personal property by any corporation, society, association, foundation or institution, organized and operated exclusively for charitable, religious or educational purposes, or by any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers and employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, when purchased from a serviceman as an incident to a sale of service. However, effective July 1, 1987, the Service Use Tax will apply to the entities noted above unless such entities have an active exemption identification number issued by the Department. (Section 2(3) of the Act)*
- f) *Effective March 17, 1965, purchases by State chartered banks and by Federal and State savings and loan associations for use, when the purchase is made from a serviceman as an incident to his sale of service, are subject to the Service Use Tax. Effective February 1, 1970, purchases by national banks for use, when the purchase is made from a serviceman as an incident to his sale of service, are also subject to the Service Use Tax, provided that such tax does not apply to property which is the subject matter of a written contract of purchase entered into by a national bank prior to September 1, 1969.*
- g) *Beginning July 1, 1999, the Service Use Tax does not apply to the use,*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such serviceman to collect the tax upon all tangible personal property sold, to his knowledge, as an incident to a sale of service for use within this State, in the same manner and subject to the same requirements, as a serviceman maintaining a place of business within this State.

(Source: Amended at 25 Ill. Reg. 5015-- effective

Section 160.135 Serviceman's Return

- a) Every serviceman required or authorized to collect the Service Use Tax must file a return each month by the twentieth day of the month covering the preceding calendar month except when the serviceman is authorized to file tax returns on a quarterly or annual basis as hereinafter provided. The Department has combined the Service Use Tax return form, the Service Occupation Tax return form and the Use Tax return with the Retailers' Occupation Tax return form.
- b) Where the sale of service is made under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the return period for which the return is filed, the serviceman, in collecting the tax, may collect, for each return period, only the tax applicable to that part of the selling price actually received during such return period.
- c) In his regular return, each serviceman shall also include the total amount of Service Use Tax due upon the selling price or cost price of tangible personal property transferred by him as an incident to a sale of service by a serviceman. Such serviceman shall remit the amount of such tax to the Department when filing such return.
- d) In general, the provisions of Subpart D of the Service Occupation Tax (86 Ill. Adm. Code 140) (including the provisions pertaining to quarterly and annual tax returns, but not the provisions relating to annual information returns) shall apply to returns of servicemen under the Service Use Tax Act.
- e) The serviceman who collects the Service Use Tax from his purchaser and who remits, as Service Use Tax, the amount so collected is allowed to deduct the 1.75% collection allowance or \$5.95-99 per calendar year, whichever is greater, in the same manner as the serviceman is allowed to do under Subpart D of the Service Occupation Tax. (86 Ill. Adm. Code 150, Subpart D) Where a purchaser from a serviceman, however, does not pay the Service Use Tax to the serviceman, but pays it directly to the Department, that purchaser is not allowed to deduct any amount as a collection allowance.

(Source: Amended at 25 Ill. Reg. 5015-- effective

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section 160.150 Claims To Recover Erroneously Paid Tax--Limitations--Procedures

a) Limitations Upon Claims

- 1) If it shall appear that an amount of tax or penalty or interest has been paid in error under the Service Use Tax Act to the Department by a purchaser, as distinguished from the serviceman, whether such amount be paid through a mistake of fact or an error of law, such purchaser may file a claim for credit with the Department.
- 2) If it shall appear that an amount of tax or penalty or interest has been paid in error to the Department under the Service Use Tax Act by a serviceman who is required or authorized to collect and remit the Service Use Tax, whether such amount be paid through a mistake of fact or an error of law, such serviceman may file a claim for credit with the Department, provided that no credit shall be allowed for any amount paid by any such serviceman unless it shall appear that he bore the burden of such amount and did not shift the burden thereof to anyone else (as in the case of a duplicated tax payment which the serviceman made to the Department and did not collect from anyone else), or unless it shall appear that he or his legal representative has unconditionally repaid such amount to his vendee:

 - A) Who bore the burden thereof and has not shifted such burden directly or indirectly in any manner whatsoever;
 - B) Who, if he has shifted such burden, has repaid unconditionally such amount to his own vendee, and
 - C) Who is not entitled to receive any reimbursement therefor from any other source than from his vendor, not to be relieved of such burden in any other manner whatsoever.

- 3) If it shall appear that an amount of tax has been paid in error under the Service Use Tax Act by the purchaser to a serviceman, who retained such tax as reimbursement for his tax liability on the same sale under the Service Occupation Tax Act, and who remitted the amount involved to the Department under the Service Occupation Tax Act, whether such amount be paid through a mistake of fact or an error of law, the procedure for recovering such tax shall be that prescribed in Sections 17, 18-19 and 20 of the Service Occupation Tax Act.
- 4) As to any claim for credit filed with the Department on and after January 1 but on or before June 30 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Service Use Tax Act) more than 3 years prior to such January 1 shall be credited, and as to any such claim filed on and after July 1 but on or before December 31 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

interest under the Service Use Tax Act) more than 3 years prior to such July 1 shall be credited.

- 5) No claim shall be allowed for any amount paid to the Department, whether paid voluntarily or involuntarily, if paid in total or partial liquidation of an assessment which had become final before the claim for credit to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court.

b) Filing Of Claims

1) Claims for credit shall be prepared and filed upon forms provided by the Department. Where the claimant is a corporation, the claim filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

2) A claim for credit shall be considered to have been filed with the Department on the date upon which it is received by the Department. Upon receipt of any claim for credit filed under the Act, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of such claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department. Such written receipt shall be prima facie evidence that the Department received the claim described in such receipt and shall be prima facie evidence of the date when such claim was received by the Department.

3) In the absence of such a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the Department, shall be deemed to be prima facie correct upon these questions in the event of any dispute between the claimant (or his legal representative) and the Department concerning these questions. (See Section 17 of the Service Use Tax A.)

c) Procedure After Filing of Claims

1) The Department will examine each claim for credit as soon as practicable after such claim is filed and will notify the claimant for his legal representative, if the claim is filed by such legal representative, or if the claimant has died or become incompetent and such legal representative has notified the Department of his appointment and qualification as such legal representative, or if the Department, on its own motion, has substituted such legal representative in the proceeding for the deceased or incompetent claimant) of its Tentative Determination of the amount of credit, if any, to which the claimant or his legal representative is entitled.

2) If such claimant, or the legal representative of a deceased or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

incompetent taxpayer, shall, within 60 20 days after the Department's Notice of Tentative Determination of Claim, file a protest thereto and request a hearing thereon, the Department shall give notice to such claimant, or to the legal representative of a deceased or incompetent taxpayer, of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of the Act, and pursuant thereto, shall issue its Final Determination of the amount of credit, if any, found to be due as a result of such hearing, to such claimant, or to the legal representative of a deceased or incompetent taxpayer.

If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 60 days and a request for a hearing thereon is not made as hereinabove provided, the said Notice shall thereupon become and operate as a final Determination. (See Section 18 of the Act.)

d) Use Of Credit Memoranda To Satisfy Prior Rights of Department

If, following the above procedure, a credit is found to be due as evidence thereof a credit memorandum for such amount shall be issued in the name of the claimant. If there is an established unpaid assessment or an admitted unpaid liability under the Service Use Tax Act, the Service Occupation tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any Local Occupation or use tax administered by the Department, the Home-County-Retailers'-Occupation-Tax-Act-fifz-Rev-Statt-1987-ch-24-par-B-II-17-the-Non-Home-Purc-Municipal-Retailers'-Occupation-Tax-Act-fifz-Rev-Statt-1989-ch-126-par-B-II-33-77-the-Home-Use-Municipal-Servic-Occupation-Tax-Act-fifz-Rev-Statt-1989-ch-24-par-B-II-17-the-Non-Home-Rate-Municipal-Servic-Occupation-Tax-Act-fifz Rev-Statt-1989-ch-24-par-B-II-17-the-Home-Purc-Municipal-Retailers'-Occupation-Tax-Act-fifz-Rev-Statt-1989-ch-34-par-5-10e677 Section 4 of the Water Commission Act of 1985 [70 ICS 372d.01] fifz-Rev-Statt-1989-ch-iii-2v3-par-231r, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act [70 ICS 3610v5.01] fifz-Rev-Statt-1989-ch-iii-2v3-par-3547r, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act [70 ICS 3615v4.03] fifz-Rev-Statt-1989-ch-iii-2v3-par-7641r, or unpaid penalty, or interest, against the claimant, the amount of the credit shall be credited against the tax or penalty or interest due. If the credit is in an amount less than that of the unpaid liability, it shall be applied pro tanto.

2) If the amount of the credit exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out such unpaid liability, a new credit memorandum shall be issued for an amount representing the difference between that of the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

original credit found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum shall be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, the Home-Rate-Municipal-Retailers' Occupation Tax Act, the Non-Home-Rate-Municipal-Retailers' Occupation Tax Act, the Home-Rate-Municipal-Service Occupation Tax Act, the Non-Home-Rate-Municipal-Service Occupation Tax Act, the Home-Rate-County-Retailers' Occupation Tax Act, the Home-Rate-County-Service Occupation Tax Act, the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act.

- 3) If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded. If such proceeding results in the issuance of an assessment which becomes final under any of these Acts, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment, and any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

(Source: Amended at 25 Ill. Reg. 5015-3, effective _____)

Section 160.155 Disposition of Credit Memoranda By Holders Thereof

a) Assignment of Credit Memoranda

- 1) Credit memoranda issued hereunder may be assigned or transferred only after a request for that purpose is filed with the Department upon forms prescribed and furnished by it, and subject to the following conditions:

- A) That the assignment is made to a person who is subject to the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, the Home-Rate-Municipal-Retailers' Occupation Tax Act, the Non-Home-Rate-Municipal-Retailers' Occupation Tax Act, the Home-Rate-Municipal-Service Occupation Tax Act, the Non-Home-Rate-Municipal-Service Occupation Tax Act, the Home-Rate-County-Retailers' Occupation Tax Act, the Home-Rate-County-Service Occupation Tax Act, the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Service-Occupation-Tax-Act, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act;

- B) That there is no proceeding pending to establish an unpaid liability against the assignor pursuant to notice given of the Department's proposal to assess an amount against him either under the Service Occupation Tax Act, or under the Service Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, the Home-Rate-Municipal-Retailers' Occupation Tax Act, the Non-Home-Rate-Municipal-Retailers' Occupation Tax Act, the Home-Rate-Municipal-Service Occupation Tax Act, the Non-Home-Rate-Municipal-Service Occupation Tax Act, the Home-Rate-County-Retailers' Occupation Tax Act, the Home-Rate-County-Service Occupation Tax Act, the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act and

- C) that there is no established assessment or admitted liability or interest or penalty unpaid by the assignor, either under the Retailers' Occupation Tax Act, or under the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local occupation or use tax administered by the Department, the Home-Rate-Municipal-Retailers' Occupation Tax Act, the Non-Home-Rate-Municipal-Retailers' Occupation Tax Act, the Home-Rate-Municipal-Service Occupation Tax Act, the Non-Home-Rate-Municipal-Service Occupation Tax Act, the Home-Rate-County-Retailers' Occupation Tax Act, the Home-Rate-County-Service Occupation Tax Act, the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act; Provided, that if the amount of the credit memorandum must first be applied, in whole or in part, against an established unpaid assessment which has been issued to the claimant-assignor, or in total or partial liquidation of an unpaid admitted tax liability, or unpaid penalty, or unpaid amount of interest, due from the claimant-assignor, notice to this effect shall be given the claimant-assignor by the Department.

- 2) If any balance is due such claimant-assignor, after application of the credit memorandum in the manner and to the purposes aforesaid, such balance may be assigned upon receipt by the Department of instructions to that effect. If there are no

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

and any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

b) Submission of Credit Memoranda With Tax Returns

- 1) Credit memoranda may be submitted to the Department, along with his assignee's tax returns, Service Use Tax returns, Retailers' Occupation Tax returns or Use Tax returns, in payment of any tax liability or penalty or interest under the Service Occupation Tax Act, the Service Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, the Home-Rule-Municipal-Retailers'-Occupation-Tax Act, the Non-Home-Rule-Municipal-Retailers'-Occupation-Tax Act, the Home-Rule-County-Retailers'-Occupation-Tax Act, the Home-Rule-County-Service-Occupation-Tax Act, the Home-Rule-County-Supplementary-Service-Occupation-Tax Act, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, incurred by the holder of such credit memoranda.

2) If, after applying any such credit memorandum against the amount of tax shown to be due by the tax return with which the credit memorandum is submitted, there is a balance of a credit memorandum in favor of the taxpayer, the Department will cancel the credit memorandum which the taxpayer submits with his return and will issue and deliver to the taxpayer a new credit memorandum for such balance. This process will be followed until the credit, to which such taxpayer is entitled, is exhausted.

3) However, any new credit memorandum, which is issued for a credit of credit due the taxpayer after applying the amount of a credit memorandum to the payment of current taxes, is subject to the prior rights of the Department to the same extent that such prior rights take precedence when a credit memorandum is first issued (see Section 160.150(d) of this Part) or when leave to assign a credit memorandum is requested (see Subsection (a) of this Section).

(Source: Amended at 25 Ill. Reg. 600.0 effective _____)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

unpaid established assessments or unpaid admitted tax liabilities, or unpaid penalties, or unpaid amounts of interest, due from the claimant-assignor, and if there are no pending proceedings as herein outlined, pending against the claimant-assignor, and if the contemplated assignee is a person who is subject to the Service Occupation Tax Act, the Service Use Tax Act, Retailers' Occupation Tax Act, Use Tax Act, any local occupation or use tax administered by the Department, the Home-Rule-Municipal-Retailers'-Occupation-Tax Act, the Non-Home-Rule-Municipal-Retailers'-Occupation-Tax Act, the Home-Rule-County-Retailers'-Occupation-Tax Act, the Home-Rule-County-Supplementary-Service-Occupation-Tax Act, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, the request for leave to assign shall be approved. The original credit memorandum shall be cancelled, and a new credit memorandum shall be issued to the assignee in the amount shown on the cancelled memorandum.

3) However, before a credit is issued to the assignee, the amount of such credit shall be applied, to the extent that may be necessary, in liquidation of any established unpaid assessment which has been issued to such assignee, or in liquidation of any unpaid penalty, or amount of interest due from such assignee, or in liquidation of any unpaid admitted liability due from the assignee under the Service Occupation Tax Act, the Service Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, the Home-Rule-Municipal-Retailers'-Occupation-Tax Act, the Non-Home-Rule-Municipal-Retailers'-Occupation-Tax Act, the Home-Rule-County-Retailers'-Occupation-Tax Act, the Home-Rule-County-Supplementary-Service-Occupation-Tax Act, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, and a credit memorandum for the balance of the credit, if any, shall then be issued to the assignee; provided, that there is no proceeding pending against the assignee to establish an unpaid liability against him.

4) If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded. If such proceeding results in the issuance of an assessment which becomes final under any of the said Acts, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Telecommunications Excise Tax2) Code Citation: 86 Ill. Adm. Code 4953) Section Numbers: Adopted Action:
495.140 Amendment4) Statutory Authority: 35 ILCS 6305) Effective Date of Amendment: March 19, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 11/17/00, 24 Ill. Reg. 17014

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This rulemaking amends Section 495.140 by implementing Public Act 91-870, which provides that beginning January 1, 2001, "prepaid telephone calling arrangements" shall not be considered telecommunications subject to Telecommunications Excise Tax. Provides the definition of "prepaid telephone calling arrangements" and what is excluded from the definition.

16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Illinois Department of Revenue (217) 782-6996
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 495
TELECOMMUNICATIONS EXCISE TAX

Section

Meaning of "Gross Charges"

495.10C

Exemptions

495.10S

Retailers

495.110

Interstate

495.115

Mobile Operations Reporting Option

495.120

Responsibility for Accounting and Payment of Tax

495.125

Credits

495.130

Tax Returns—When Due—Contents

495.135

Imposition of Telecommunications Excise Tax

495.140

AUTHORITY: Implementing the Telecommunications Excise Tax Act [35 ILCS 630] and authorized by Section 17 of the Telecommunications Excise Tax Act [35 ILCS 630/17].

SOURCE: Adopted at 14 Ill. Reg. 11321, effective July 1, 1990; amended at 21 Ill. Reg. 13656, effective September 29, 1997; amended at 22 Ill. Reg. 11886, effective June 29, 1998; amended at 24 Ill. Reg. 12082, effective July 28, 2000; amended at 25 Ill. Reg. 197, effective December 26, 2000; amended at 25 Ill. Reg. 308, effective _____.

Section 495.140 Imposition of Telecommunications Excise Tax

- a) The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charge for such telecommunications purchased at retail from retailers. On and after January 1, 2001, prepaid telephone calling arrangements shall not be considered telecommunications subject to "Prepaid Telecommunications Excise Tax." (Sections 3 and 4 of the Act) "Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more intrastate, interstate, or international telephone calls or other telecommunications using an access number, an authorization code, or both, whether manually or electronically dialed, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. For purposes of this Section, "recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a

different access number or authorization code. For purposes of this Section, "telecommunications" means that term as defined in Section 2 of the Telecommunications Excise Tax Act [35 ILCS 630]. "Prepaid telephone calling arrangement" does not include an arrangement whereby a customer purchases a payment card and pursuant to which the service provider reflects the amount of the purchase as a credit on an account for a customer under an existing subscription plan. (Section 2 of the Act).

- b) The Telecommunications Excise Tax must be collected from a taxpayer by a retailer maintaining a place of business in this State"
- 1) "retailer maintaining a place of business in this State" means and includes any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State. (Section 2(m) of the Act)
 - 2) Retailers maintaining a place of business in this State shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications in this State, when sold for use. Whenever possible, the tax shall be stated as a distinct item separate and apart from the gross charge for telecommunications.

(Source: Amended at 25 Ill. Reg. 11321, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Uniform Penalty and Interest Act

2) Code Citation: 86 Ill. Adm. Code 700

3) Section Numbers:
 Adopted Action:
 Amendment
 700.100
 Amendment
 700.220
 Amendment
 700.300
 New Section
 700.350
 Amendment
 700.400

4) Statutory Authority: 20 ILCS 2502/39b3; 35 ILCS 120/5; 35 ILCS 5/1401(a)

5) Effective Date of Amendments: March 23, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: November 13, 2000, 24 Ill. Reg. 16585

10) Has JCER issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCER. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCER been made as indicated in the agreement letter issued by JCER? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking amends Sections 700.100 220 and 300 of the Uniform Penalty and Interest Act to update current provisions for penalty applications and to reflect, clarify and provide examples of the new late filing and late payment penalty structures and interest charge enacted by P.A. 91-803. P.A. 91-803 amended the Act to eliminate the application of interest on penalty, to provide for the calculation of the Tier 1 late filing penalty after taking into account taxes paid and credits allowable as of the due date of the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

return, and to provide for a late payment penalty calculated at graduated rates based upon the number of days payment is late.

This rulemaking adds new Section 700.350 to explain the Bad Check Penalty added to the Uniform Penalty and Interest Act by P.A. 91-803 as an additional penalty applicable under the Act.

Section 700.400 is amended by this rulemaking to further explain policies of the Department used in making reasonable cause determinations.

16) Information and questions regarding this adopted amendment shall be directed to:

Dana Deen Kinion
 Associate Counsel
 Illinois Department of Revenue
 Legal Services Office
 101 West Jefferson
 Springfield, Illinois 62794
 (217) 782-6996

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 700

UNIFORM PENALTY AND INTEREST ACT

SUBPART A: SCOPE AND APPLICATION OF THE ACT

Section

700.100 Scope of the Act and this Part

Application of the Provisions of the Act and this Part

SUBPART B: INTEREST

700.200 Interest Paid and Interest Charged

700.210 Interest Rate Calculation

700.220 Interest Charged Taxpayers

700.230 Interest Paid Taxpayers on Overpayments

SUBPART C: PENALTIES

700.300 Penalty for Late Filing or Failure to File and Penalty for Late Payment of Tax

700.310 Penalty for Failure to File Correct Information Returns

700.320 Penalty for Negligence

700.330 Penalty for Fraud

700.340 Personal Liability Penalty

700.350 Bad Check Penalty

SUBPART D: REASONABLE CAUSE

700.400 Reasonable Cause

SUBPART E: PAYMENT APPLICATION

700.500 Payment Application

AUTHORITY: Implementing the Uniform Penalty and Interest Act [35 ILCS 735], and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].**SOURCE:** Adopted at 18 Ill. Reg. 1561, effective January 13, 1994; amended at 19 Ill. Reg. 1909, effective February 6, 1995; amended at 20 Ill. Reg. 14632, effective October 29, 1996; amended at 25 Ill. Reg. 5038, effective _____.

SUBPART A: SCOPE AND APPLICATION OF THE ACT

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section 700.100 Scope of the Act and this Part

The Uniform Penalty and Interest Act [35 ILCS 735/3-1-et-seq.] ("the Act" or "the UPIA") and this Part apply to all taxes administered by the Illinois Department of Revenue with the exception of the Racing Privilege Tax Act [230 ILCS 5/47], the Revenue Act of 1939 [35 ILCS 205/1-et-seq.], the Real Estate Transfer Tax Act [35 ILCS 305/1-et-seq.] and the Coin-Operated Amusement Device Tax [35 ILCS 510/1-et-seq.]. A specific provision of a particular act contrary to the requirements of the Uniform Penalty and Interest Act will control, as will a specific provision that may impose a penalty in addition to the penalties provided for in the UPIA. Generally, the Uniform Penalty and Interest Act applies to the Motor Fuel Tax Law with the exception of provisions concerning IFPA (International Fuel Tax Agreement) and Motor Fuel Use Tax. (35 ILCS 505/11)

EXAMPLE 1: The Uniform Penalty and Interest Act contains Section 3-4 which sets forth the penalty for failure to file correct information returns. However, Section 5b of the Motor Fuel Tax Law provides for the filing of an information return by bulk users of special fuel and imposes a 5% penalty for failure to file the information return. When the Uniform Penalty and Interest Act was enacted, Section 5b of the Motor Fuel Tax Law was not amended to reference the 5% penalty under the Uniform Penalty and Interest Act. Therefore, the 5% penalty will continue to apply to a failure to file an information return by a bulk user of special fuel. The 5% penalty is a penalty otherwise provided for in a tax Act. (See Section 3-4(c)(1) of the Act)

EXAMPLE 2: Section 3 of the Cigarette Tax Act [35 ILCS 130/3] requires distributors of cigarettes to purchase cigarette tax stamps and affix those stamps to packages of cigarettes before delivering the cigarettes in this State to a purchaser. Section 3 of the Cigarette Tax Act allows distributors to purchase the tax stamps from the Department with post-dated drafts. Section 4 provides that a distributor's failure to pay any such draft when due, shall also make such distributor liable to the Department for a penalty equal to 25% of the amount of such draft. The 25% penalty is a penalty otherwise provided for in a tax Act that is in addition to the penalties imposed under the UPIA.

(Source: Amended at 25 Ill. Reg. 5038, effective _____)

SUBPART B: INTEREST

Section 700.220 Interest Charged Taxpayers

a) Interest charged to taxpayers applicable for returns due on or before _____

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- December 31, 2000. Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax and penalty due. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 21 days after the date of such notice and demand, interest under this Section on the amount so paid shall not be imposed for the period after the date of the notice and demand. (Section 3-2(c) of the Act)
- b) Interest charged to taxpayers applicable for returns due on and after January 1, 2001. Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax due. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of the notice and demand, interest under this Section on the amount so paid shall not be imposed for the period after the date of the notice and demand. (Section 3-2(c) of the Act)

EXAMPLE: A taxpayer timely filed his individual income tax return on April 15, but because of an arithmetic error the taxpayer did not pay the entire amount of tax due. An assessment for tax due and late payment penalty imposed will be issued and showing interest calculated at the semiannually adjusted daily rate pursuant to the Act and this Section on the tax due only.

- cb) Interest on tax shall accrue from the due date of the tax without regard to extensions of time for filing of returns.
- dc) For returns due on or before December 31, 2000, interest on any penalty shall accrue from the date the penalty is imposed.

EXAMPLE 1: A taxpayer was required to file a return under the Retailers' Occupation Tax Act on or before February 20, 1994 for the January 1994 liability period. The return was filed and tax was paid on May 25, 1994. An assessment will be issued with interest calculated at the semiannually adjusted daily rate pursuant to the Act and this Part on the tax due and penalty assessed from February 21, 1994 through May 25, 1994, the date the tax was paid.

EXAMPLE 2: A taxpayer was required to file a return under the Retailers' Occupation Tax Act on or before December 20, 1993 for the November 1993 liability period. The return was filed and tax was paid on May 25, 1994. An assessment will be issued with interest calculated at the 1.25% per month or fraction of month rate from December 21, 1993 to December 31, 1993 and at the semiannually adjusted daily rate imposed pursuant to the Act and these rules on the tax due, from January 1, 1994 through May 25, 1994, the date the tax was paid. No interest shall be charged or accrued on the penalty assessed since the due date of the tax was before the effective date

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

of the Uniform Penalty and Interest Act.

EXAMPLE 3: A taxpayer was required to make accelerated payments of the Public Utilities Tax on the 7th, 15th, 22nd and 31st of January 1994. Each payment should have been \$3000. The taxpayer did not make a payment on the 31st day of January, but the taxpayer did pay \$3000 with the monthly return which was filed, when due, on February 15, 1994. The taxpayer will be charged a 15% late payment penalty because the last accelerated payment was not paid when due. An assessment will be issued with interest calculated on the tax and penalty from February 1, 1994 through February 15, 1994, when the payment was received.

EXAMPLE 4: A corporate calendar year taxpayer (C corporation) files a return under the ITA on March 15, 1994 for its 1993 taxable year. The corporation was liable for, but did not make, any estimated payments for the taxable year. The tax liability reported on the 11-1120 was paid in full when the return was filed. Upon the filing of the return the corporation will be assessed a late payment penalty for failure to make proper quarterly estimated payments. Interest on the late payment penalty will begin to accrue on the original due date of the return and will continue to accrue until the date paid.

EXAMPLE 5: A corporate, calendar-year taxpayer files a return under the ITA on March 15, 1994 for its 1993 taxable year. The corporation properly made all estimated payments and paid the remainder of its tax liability when the return was filed. In 1997 an audit is completed on the corporation's 1993 return and additional liability is proposed. The corporation agrees to the audit results but does not pay the liability until 35 30 days after the Notice and Demand for payment is issued. A late payment penalty will be assessed on the audit liability and interest will accrue on the penalty from the original due date of the 1993 return until the date the penalty is paid.

(Source: Amended at 25 Ill. Reg. 0636, effective _____)

SUBPART C: PENALTIES

Section 700.300 Penalty for Late Filing or Failure to File and Penalty for Late Payment of Tax

- a) Late filing penalty for original returns due prior to January 1, 1996.
A penalty of 5% of the tax required to be shown due on a return shall

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing (penalty for late filing or nonfiling).

- 1) If any unprocessable return is corrected and filed within 21 days after notice by the Department the late filing or nonfiling penalty shall not apply. (Section 3-3(a) of the Act) The unprocessable return must have been filed on or before the due date prescribed for filing of that return, with regard for any extension of filing. In other words, a taxpayer may not attempt to avoid the 5% penalty by the late filing of an unprocessable return which is then corrected within 21 days of notice by the Department.
- 2) A return, for purposes of the imposition of this penalty, is any return required by a tax Act to be filed with the Department that is not an information return as that term is defined in Section 3-4(c) of the Act.

EXAMPLE 1: A withholding agent files Form IR-941 (Employer's Quarterly Illinois Withholding Tax Return) for third quarter 1994 on November 1, 1994. The total Illinois tax withheld is \$500,000. The form was due on October 31, 1994. A late payment filing penalty is imposed as follows: Total Illinois tax withheld (\$500,000) times the 5% late filing penalty equals \$25,000.

EXAMPLE 2: A withholding agent files Form IR-W-3 (Reconciliation of Illinois Income Tax Withheld and Transmittal of Income and Tax Statements) for tax year 1993 on March 1, 1994. The total Illinois tax withheld is \$1,000,000. The form was due on February 28, 1994. A late filing penalty is imposed as follows: Total Illinois tax withheld (\$1,000,000) times the 5% late filing penalty is \$50,000.

- 3) If a penalty for late filing or nonfiling is imposed in addition to a penalty for late payment, the total penalty due shall be the sum of the late filing penalty and the applicable late payment penalty (Section 3-3(a) of the Act).

- b) Late filing penalty for original returns due on and after January 1, 1996 and on or before December 31, 2000.

- 1) A penalty equal to 2% of the tax required to be shown due on a return, up to a maximum amount of \$50, determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed, shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing. (Section 3-3(a-5) of the Act)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

EXAMPLE 1: Your Form SP-1 is due by April 20, but you file it on May 17. The tax shown due on your return is \$10,000. You timely paid the full \$10,000 in accelerated tax payments. We notify you that you owe a penalty of \$200 (2% x \$10,000 = \$200; \$200 is less than \$250, therefore you owe \$200) and interest because you did not file your return by April 20 due date. If you do not pay the \$200 penalty and interest within 30 days after the date of our notice, additional interest will accrue on the \$200 penalty.

EXAMPLE 2: Your Form IR-1040 is due by April 15, but you file it on November 10 (after the extended due date). The tax shown due on your return is \$1,500. Your employer withheld \$1,200 for Illinois income tax, and you timely paid us \$400 in estimated tax payments. You have overpaid your tax by \$100 (\$1,500 - \$1,200 = \$300). We notify you that you owe a penalty of \$30 (2% x \$1,500 = \$30; \$30 is less than \$250, therefore you owe \$30) because you did not file your return by the due date. We reduce your refund by the \$30 penalty and issue you a check for \$70.

EXAMPLE 3: Your Form RRM-1 is due by September 30, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 25 days after our notice and pay the total tax due of \$18,500. We notify you that you owe a penalty of \$250 (2% x \$18,500 = \$370; \$370 is greater than \$250, therefore you owe \$250) and interest because you did not file your return by the September 30 due date.

EXAMPLE 4: Your Form IR-1120 is due by March 15, but you file it on December 20 (after the extended due date). The income tax shown on the return is \$6,000 and the replacement tax shown on the return is \$3,125. An Enterprise Zone Investment Credit of \$2,000 is claimed against your income tax liability. You have timely paid \$7,500 in estimated payments. You have overpaid your tax liability by \$375 ((\$2,000 + \$7,500) - (\$6,000 + \$3,125) = \$375). We notify you that you owe a penalty of \$182.50 (\$9,125 x 2% = \$182.50; \$182.50 is less than \$250, therefore you owe \$182.50) because you did not file your return by the due date. We reduce your refund by \$182.50 and issue you a check for \$192.50.

- 2) If any return is not filed within 30 days after notice of nonfiling mailed by the Department to the last known address of the taxpayer contained in Department records, an additional penalty amount shall be imposed equal to the greater of \$250 or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

2% of the tax shown on the return. However, the additional penalty amount may not exceed \$5,000 and is determined without regard to any part of the tax that is paid on the date the return was required to be filed (penalty for late filing or nonfiling) (Section 3-3(a-5) of the Act).

EXAMPLE: Your Form RHM-1 is due by September 30, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 45 days after our notice and pay the total tax due of \$18,500. You owe a penalty of \$250 ($2\% \times \$18,500 = \370 ; \$370 is greater than \$250, therefore you owe \$250) and interest because you did not file your return by the September 30 due date. You also owe an additional penalty of \$370 ($2\% \times \$18,500 = \370 ; \$370 is greater than \$250 and less than \$5,000, therefore you owe \$370) and interest because you did not respond within 30 days after our notice. Your total penalties for late filing are \$620 ($\$250 + \$370 = \620). You will also owe a late payment penalty for not paying your tax by the due date. Interest will continue to accrue on unpaid tax and penalties until you fully pay the total amount you owe.

4) If any unprocessable return is corrected and filed within 30 days after notice by the Department, the late filing or nonfiling penalty shall not apply. The unprocessable return must have been filed on or before the due date prescribed for filing of that return, with regard for any extension of filing. In other words, a taxpayer may not attempt to avoid the penalty by the late filing of an unprocessable return which is then corrected within 30 days after notice by the Department.

4) In the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and no other failure to file has occurred in the two years immediately preceding the failure to file on the prescribed due date, the penalty imposed by Section 3-3(a-5) shall be abated. This two year "good filing" history abatement is effective for returns due on and after August 18, 1995 (the effective date of P.A. 89-379).

c) Late filing penalty for original returns due on and after January 1, 2001.
1) A penalty equal to 2% of the tax required to be shown due on a return, up to a maximum amount of \$250, reduced by any tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed, shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing. (Section 3-3(a-10) of the Act).

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

EXAMPLE 1: Your Form ST-1 is due by April 20, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 20 days after our notice. The tax required to be shown due on your return is \$20,000. You timely paid the full \$20,000 in accelerated tax payments. A penalty of 2% of the tax required to be shown due on the return is applicable for the late filing of your return, but no penalty is assessed because after taking into account the tax paid on time your tax liability is zero.

EXAMPLE 2: Your Form IL-1040 is due by April 15, but you file it on November 10 (after the extended due date). The tax required to be shown due on your return is \$2,000. Your employer withheld \$1,250 for Illinois Income Tax, and you timely paid us \$150 in estimated tax payments. Tax owed with the return is \$600 ($\$2,000 - \$1,250 - \$150 = \600). We notify you that you owe a penalty of \$12 ($2\% \times \$600 = \12 ; \$12 is less than \$250, therefore you owe \$12) because you did not file your return on time.

EXAMPLE 3: Your Form IL-1120 is due by March 15, but you file it on December 7 (after the extended due date). The income tax required to be shown due on the return is \$20,000 and the replacement tax required to be shown due on the return is \$12,500. An Enterprise Zone Investment Credit of \$21,000 is claimed against your income tax liability. You have timely paid \$17,000 in estimated payments. Tax owed with the return is \$13,500 ($\$20,000 + \$12,500 - (\$21,000 + \$17,000) = \$13,500$). We notify you that you owe a penalty of \$250 ($\$13,500 \times 2\% = \270 ; \$270 is more than \$250, therefore you owe \$250) because you did not file your return on time.

2) If any return is not filed within 30 days after notice of nonfiling mailed by the Department to the last known address of the taxpayer contained in Department records, an additional penalty amount shall be imposed equal to the greater of \$250 or 2% of the tax shown on the return. However, the additional penalty amount may not exceed \$5,000 and is determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed (penalty for late filing or nonfiling). (Section 3-3(a-10) of the Act)

EXAMPLE: Your Form ST-1 is due by April 20, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 45 days after

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

our notice. The tax shown on your return is \$18,000. You timely paid the full \$18,000 in accelerated tax payments. Although you did not file your return by the due date, no first tier late filing penalty is assessed because after taking into account the tax paid on time your tax liability is zero. You do, however, owe an additional second tier late filing penalty of \$360 (2% of \$18,000 = \$360; \$360 is greater than \$250, therefore you owe \$360) because you did not respond within 30 days after our notice.

3) If any unprocessable return is corrected and filed within 32 days after notice by the Department, the late filing or non-filing penalty shall not apply (Section 3-3(a-10) of the Act). The unprocessable return must have been filed on or before the due date prescribed for filing of that return, with regard for any extension for filing. In other words, a taxpayer may not attempt to avoid the penalty by the late filing of an unprocessable return that is then corrected within 30 days after notice by the Department.

4) In the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and has not occurred in the 2 years immediately preceding the failure to file on the prescribed due date, the penalty imposed by Section 3-3(a-10) shall be abated (Section 3-3(a-10) of the Act). This two year "good filing" history abatement is effective for returns due on and after August 18, 1995 (the effective date of P.A. 89-379).

d) For returns due before January 1, 1998, a 15% penalty of 15% of the tax shown on the return or the tax required to be shown due on the return shall be imposed for failure to pay:

- 1) the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income tax act (penalty for late payment or nonpayment of admitted liability); or

EXAMPLE 1: Your Form IL-1120 is due by March 15. You timely file your return on March 15, but you only made your first estimated payment of \$337.50; you were required to make four estimated payments. The total tax shown due on your return is \$1,500. You pay the remaining \$1,162.50 you owe with your return. We notify you that you owe a penalty of \$151.88 (\$1,500 tax x 90% required to be paid timely = \$1,350 to be made in four equal installments. \$1,350 divided by 4 estimated payments = \$337.50 per payment.

\$337.50 x 3 unpaid quarters = \$1,012.50 estimated tax that was due. \$1,012.50 x 15% penalty = \$151.88 late payment penalty) and interest because you did not pay the required amount due for each estimated payment. If you do not pay the \$151.88 penalty and interest within 30 days after our notice, additional interest will accrue on the penalty.

EXAMPLE 2: Same facts as in Example 1 above except that your return was timely filed between March 16 and October 15 and you paid the remaining \$150 tax you owed with your return. In this situation, your return was timely filed by virtue of the automatic extension for filing, but you owe a late payment penalty on the \$150 paid with the return because that amount of tax was not paid on or before the original due date of the return. There would be an additional penalty as prescribed by UPIA Section 3-3(b)(1) of \$22.50 (\$1,500 - \$1350 = \$150 x 15% = \$22.50) for failure to pay the total tax by March 15.

2) the full amount of any tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this Section shall be imposed at the expiration of the period provided for the filing of a protest. (Section 3-3(b) of the Act) The 30-day period for providing payment in response to Department notices and final assessments is effective for notices and assessments issued on or after January 1, 1996. Taxpayers must respond to notices and assessments issued prior to January 1, 1996 within 21 days.

EXAMPLE: Your Form ST-1 is due by August 20. You timely file your return but do not pay the \$10,750 tax shown due until September 27. We notify you that you owe a penalty of \$1,612.50 (15% x \$10,750 = \$1,612.50) and interest. If you do not pay the \$1,612.50 penalty and interest within 30 days after the date of our notice, additional interest will accrue on the penalty.

e) For returns due on and after January 1, 1998 and on or before December 31, 2000, a penalty of 20% of the tax shown on the return or the tax

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

required to be shown due on the return shall be imposed for failure to pay:

- 1) the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required of subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability); or

EXAMPLE: Your Form IL-1040 is due by April 15, but you file your return on October 15 (by the extended filing date) with tax due of \$1,000. You were required to make timely quarterly estimated income tax payments but you only made your first quarter estimated payment of \$225. You paid the remaining balance you owe of \$775 with the return. We notify you that you owe late payment penalties for late payment of estimated tax and late payment of total tax due by April 15 in the total amount of \$135. The penalty for late payment of estimated tax is calculated as follows: \$1,000 tax x 9% required to be paid timely = \$90 to be made in four equal installments. \$90 divided by 4 = \$22.5 per quarterly payment. \$22.5 x 3 unpaid quarters = \$67.5 estimated paid late. \$67.5 x 20% penalty = \$13.5 late payment penalty for failure to pay estimated taxes. The penalty for late payment of total tax due by April 15 is calculated as follows: \$1,000 = \$100 tax due with the return and paid late. \$100 x 20% = \$20 late payment penalty for failure to pay tax due by April 15.

- 2) the full amount of the tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review hearing been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this subsection (e)(2) shall be imposed at the expiration of the period provided for the filing of a protest. (Section 3-3(b-5) of the Act)

EXAMPLE: Corporate taxpayer timely files its IL-120 for tax year 1997 by the March 15, 1998 due date for calendar year filings. Corporate taxpayer properly made all estimated tax payments and paid the remainder of its tax liability

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

with the return. In 2000, the Department completes an audit of Corporate Taxpayer's 1997 return and an additional liability of \$5,000 is proposed. Corporate taxpayer agrees to the audit findings but does not pay the additional liability until 60 days after Notice and Demand for payment is issued. A penalty of \$1,000 ($\$5,000 \times 20\% = \$1,000$) is assessed against Corporate Taxpayer for late payment of additional liability.

- e) For returns due on and after January 1, 2001, a penalty shall be imposed for failure to pay:

- 1) the tax shown due on a return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability). The amount of the penalty imposed shall be:
 - A) 2% of any amount that is paid no later than 30 days after the due date;
 - B) 5% of any amount that is paid later than 30 days after the due date and not later than 90 days after the due date;
 - C) 10% of any amount that is paid later than 90 days after the due date and not later than 180 days after the due date; and
 - D) 15% of any amount that is paid later than 180 days after the due date.

EXAMPLE 1: Your Form IL-1040 is due by April 15, but you file your return on May 15 (within the extension for time to file) showing total tax due of \$1,000. You were required to make quarterly estimated income tax payments but you only made your first quarter estimated payment of \$225. You paid the remaining balance you owe of \$775 with the return. We notify you that you owe interest on the late tax, plus late payment penalties for late payment of estimated tax and late payment of total tax due by April 15 in the amount of \$92. The penalty for late payment of estimated tax and late payment of total tax due with the return is based on the number of days the payment is late. Your second quarter payment was made more than 180 days later, your third quarter payment was made more than 180 days later, and your fourth quarter payment was made more than 90 days but less than 180 days late. Your payment due with your return was paid 30 days late.

The late payment of estimated tax penalty is calculated as follows: \$1,000 tax x 9% required to be paid timely = \$90 to be made in four equal installments. \$90 divided by 4 = \$22.5 per quarterly payment. Second quarter penalty (\$22.5

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

$x \ 15\% = \$33.75$) + Third quarter penalty $(\$225 \times 15\% = \$33.75)$ + Fourth quarter penalty $(\$225 \times 10\% = \$22.50) = \$90$ late payment penalty for failure to pay estimated taxes.

The penalty for late payment of total tax due by April 15 is calculated as follows: $\$1,000 - \$900 = \$100$ tax due with the return and paid late. $\$100 \times 2\% = \2 late payment penalty for failure to pay tax due by April 15.

EXAMPLE 2: Your Form 57-1 is due on June 20th. You were required to make quarter-monthly accelerated tax payments of the Retailers' Occupation tax on the 7th, 15th, 22nd, and 31st of May. Each payment should have been \$4,500. You did not make any accelerated payments and instead paid the total tax due when you timely filed your return on June 20th. We notify you that you owe a late payment penalty for failing to make timely accelerated tax payments.

The May 7 and May 15 payments are more than 30 days but less than 90 days late, therefore subject to the 5% penalty. The May 22 and May 31 payments are no more than 30 days late, and therefore subject to the 2% penalty. Your late payment penalty is $\$630$ $(\$4,500 \times 5\% = \$225) + (\$4,500 \times 5\% = \$225) + (\$4,500 \times 2\% = \$90) + (\$4,500 \times 2\% = \$90) = \$630$.

- 2) the full amount of any tax required to be shown due on a return and that is not shown (penalty for late payment or nonpayment of additional liability) within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. The amount of penalty imposed shall be 20% of any amount that is not paid within the 30-day period. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty imposed under subsection (b-10)(1) of Section 3-3 of the Act shall be imposed at the expiration of the period provided for the filing of a protest. (Section 3-3(b-10) of the Act)

EXAMPLE: Corporate taxpayer timely files its IL-1120 for tax year 2000 by the March 15, 2001 due date for calendar year filers. Corporate taxpayer properly made all estimated tax payments and paid the remainder of its tax liability with the return. In 2003, the Department completes an audit of Corporate Taxpayer's 2000 return and an additional liability of \$5,000 is proposed. Corporate Taxpayer agrees

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

to the audit findings but does not pay the additional liability until 60 days after Notice and demand for payment is issued. A penalty of $\$1,000$ $(\$5,000 \times 20\% = \$1,000)$ is assessed against Corporate Taxpayer for late payment of additional liability.

- 3d) For purposes of the late payment penalties, the basis of the penalty shall be the tax shown or required to be shown on the return, whichever is applicable, reduced by any part of the tax which is paid on time and by any credit which was properly allowable on the date the return was required to be filed. (Section 3-3(c) of the Act) The amount of the late payment penalty, unlike some late payment penalties that were imposed prior to the adoption of the Uniform Penalty and Interest Act, does not change over time for returns due on or before December 31, 2000. The late payment penalty is the same whether payment is one day later or one year late. For returns due on and after January 1, 2001, however, the late payment penalty is a graduated penalty that increases as the time period during which the tax liability remains unpaid increases. It is only after the tax liability has remained unpaid for more than 180 days that the late payment penalty caps at 15% and remains at such rate until the tax liability is paid.
- 3e) A penalty shall be applied to the tax required to be shown even if that amount is less than the tax shown on the return. (Section 3-3(d) of the Act)

EXAMPLE: A rentor of automobiles for periods of one year or less, has tax due under the Automobile Renting Occupation and Use Tax for the rental receipts received during the month of June 1994 on July 20, 1994. The tax shown on the return filed on July 20, 1994 is \$500, but the taxpayer remits no payment of the tax when the return is filed. On August 1, 1994 the taxpayer files an amended return reducing tax liability to \$400 and also remits \$400. Assuming that the \$400 amount shown on the amended return is correct, the taxpayer owes a late payment penalty on \$400, the amount required to be shown on the original return, not the \$500 amount that was shown on the original return.

- 3f) If both a subsection (b)(1) or (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty are assessed against the same return, the subsection (b)(2) or (b-5)(2) penalty shall be assessed against only the additional tax found to be due. (Section 3-3(e) of the Act) For returns due on and after January 1, 2001, if a subsection (b-10)(1) penalty and a subsection (b-10)(2) penalty are assessed against the same return, the subsection (b-10)(2) penalty shall be assessed against only the additional tax found to be due. (Section 3-3(e-5) of the Act)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

EXAMPLE 1: A withholding tax agent has tax due for the third quarter of 1994. The return is filed timely, with tax withheld of \$20,000, but on time payments only equal \$15,000 leaving a tax balance due of \$5,000. The late payment penalty applicable on November 1, 1994 is \$750. Full payment of tax is made on March 15, 1995. On October 1, 1997, an audit is completed increasing tax to \$30,000. The withholding agent agrees to the audit finding. An additional ~~Additional~~ late payment penalty of \$15,000 (\$30,000 - ~~minus~~ the original \$20,000 = ~~equals~~ \$10,000 tax due x ~~times~~ 15% ~~equals~~ \$1,500 late payment penalty) will be assessed if the withholding agent does not pay the additional tax liability within 30 days after Notice and Demand for payment of the additional liability. ~~The total late payment penalty is \$2,750.~~

EXAMPLE 2: Corporate Taxpayer timely files its IL-1120 for the 2000 tax year on March 15, 2001 showing total tax due of \$30,000. Corporate Taxpayer properly made all estimated tax payments but fails to pay the \$3,000 tax balance due with the return. Corporate Taxpayer pays the \$3,000 tax due on June 15, 2001, later than 90 days but no later than 180 days after the due date. The penalty for late payment of tax due is \$300 ($\$3,000 \times 10\%$). In 2003, the Department completes an audit of Corporate Taxpayer's 2000 return increasing the tax due to \$36,000. Corporate Taxpayer agrees to the audit finding but does not pay the additional liability until 45 days after Notice and Demand is issued. Corporate Taxpayer is assessed an additional late payment penalty of \$1,200 ($\$36,000 - \$30,000$ original liability = $\$6,000$ additional tax due x 20% = $\$1,200$).

19) If the taxpayer has failed to file the return, the Department shall determine the correct tax according to its best judgment and information, which amount shall be prima facie evidence of the correctness of the tax due. (Section 3-3(f) of the Act)

20) The time within which to file a return or pay an amount of tax due without imposition of a penalty does not extend the time within which to file a protest to a notice of tax liability or a notice of deficiency. (Section 3-3(g) of the Act)

(Source: Amended at 25 Ill. Reg. 5038, effective 5/1/98.)

Section 700.350 Bad Check Penalty

In addition to any other penalty provided in the Act, a penalty of \$25 shall be imposed on any person who issues a check or other draft to the Department that is not honored upon presentation. The penalty imposed under this section shall be deemed assessed at the time of presentation of the check or other draft and

shall be treated for all purposes, including collection and allocation, as part of the tax or other liability for which the check or other draft represented payment. (Section 3-7.5 of the Act) The bad check penalty is applicable to any payment received in the form of a check, money order, cashier's check or other written order to pay money and that is not honored for any reason by the bank or financial institution upon which it is drawn. The bad check penalty is assessed on a per check basis, therefore, for every check or draft issued to the Department that is not honored when presented to the bank upon which it is drawn a separate \$25 penalty will be assessed against the drawer of the check or draft.

EXAMPLE: Taxpayer's ST-1 is due on April 20. Taxpayer does not file the return until May 1 and pays the tax due of \$2,000 with a check submitted with the return. Taxpayer's check is dishonored. The Department assesses Taxpayer with penalties totaling \$105. The penalties assessed include the following: a late filing penalty of \$40 ($\$2,000 \times 2\%$ = \$40) for filing the return late, a late payment penalty of \$40 ($\$2,000 \times 2\%$ = \$40) for failing to pay the tax by the due date, and a bad check penalty of \$25 for making payment to the Department with a bad check.

(Source: Added at 25 Ill. Reg. 5038, effective 5/1/98.)

SUBPART D: REASONABLE CAUSE

Section 700.400 Reasonable Cause

- a) The penalties imposed under the provisions of Sections 3-3, 3-4, and 3-5, and 3-7.5 of this Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with this Section ~~rules-and-regulations promulgated-by-the-Department~~. (Section 3-8 of the Act)
- b) The determination of whether a taxpayer acted with reasonable cause shall be made on a case by case basis taking into account all pertinent facts and circumstances. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine his proper tax liability and to file and pay his proper liability in a timely fashion.
- c) A taxpayer will be considered to have made a good faith effort to determine and file and pay his proper tax liability if he exercised ordinary business care and prudence in doing so. A determination of whether a taxpayer exercised ordinary business care and prudence is dependent upon the clarity of the law or its interpretation and the taxpayer's experience, knowledge, and education. Accordingly, reliance on the advice of a professional does

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

not necessarily establish that a taxpayer exercised ordinary business care and prudence, nor does reliance on incorrect facts such as an erroneous information return.

- d) The Department will also consider a taxpayer's filing history in determining whether the taxpayer acted in good faith in determining and paying his tax liability. Isolated computational and transcriptional errors will not generally indicate a lack of good faith in the preparation of a taxpayer's return.

e) Examples of Reasonable Cause. The following non-exclusive list of situations will constitute reasonable cause for purposes of the abatement of penalties:

- 1) Reasonable cause for abatement of penalty will exist if a liability results from amendments made by the Department to regulations or formal administrative policies or positions after the return on which the liability was computed was filed.
- 2) Reasonable cause for abatement may also be based on the death, incapacity or serious illness of the taxpayer (or his tax preparer) or a death or serious illness in his or her immediate family which causes a late filing and payment of tax due. In the case of a corporation, estate, trust, etc., the death, incapacity, or serious illness must have been of an individual having sole authority to file the return (not the individual preparing the return) or make the deposit/payment, or a member of such individual's immediate family.
- 3) An unavoidable absence of a taxpayer (or tax preparer) due to circumstances unforeseeable by a reasonable person may also constitute reasonable cause for purposes of abatement of the penalty. An unavoidable absence does not include a planned absence such as a vacation. In the case of a corporation, estate, trust, etc., the absence must have been of an individual having sole authority to file the return (not the individual preparing the return) or make the deposit/payment.
- 4) Inability to timely obtain records necessary to determine the amount of tax due to reasons beyond the taxpayer's control. For example, some taxpayers, particularly those with income from banks, partnerships, trusts, estates or Subchapter S corporations, must secure information from these entities in order to properly compute the amount of tax due.
- 5a) Factors beyond taxpayer's control such as destruction by fire, other casualty or civil disturbance, of the taxpayer residence or place of business records.
- 5b) Taxpayer mailed the return or payment to the Department in time to reach the Department on or before the due date, given the normal handling of the mail. However, through no fault of the taxpayer, the return or payment was not delivered within the prescribed time period. This fact situation would constitute reasonable cause for abatement of the penalty.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

76) Reasonable cause will exist for purposes of abatement of the penalty if a taxpayer makes an honest mistake, such as inadvertently mailing a Department of Revenue check to a local government, another state's Department of Revenue, or to the Internal Revenue Service.

7a) An Illinois appellate court decision, a U.S. appellate court decision, or an appellate court decision from another state (provided that the appellate court case in the other state is based upon substantially similar statutory or regulatory law) which supports the taxpayer's position will ordinarily provide a basis for a reasonable cause determination.

9) The Department gave erroneous information, or delayed a process under its control. In making such a determination the Department will consider:

- A) Did the taxpayer provide accurate information upon which to base the tax?
- B) Was the information requested by the taxpayer easily available in instructions or bulletins?
- C) Did the taxpayer rely on the advice?
- D) Did an employee who was acting in an official capacity and was authorized to provide assistance provide the advice?
- E) Was the taxpayer's reliance upon the advice reasonable?
- 10) Taxes withheld by an employer for the wrong state. A taxpayer may not realize that withholding taxes are being withheld and remitted to the wrong state until the end of the taxable year when he or she receives a W-2. The taxpayer will be required to produce all documentation necessary to demonstrate that he or she had a reasonable belief that taxes were being withheld for the proper state.
- 11) Embezzlement or employee fraud not reasonably within the knowledge of the taxpayer.
- 12) The following occurrences are situations involving reasonable cause with respect to the imposition of the Tier 2 late filing penalty:

- A) Taxpayer demonstrates that he or she did not receive the penalty notice. If the taxpayer can show that he or she filed a change of address card, tax return, payment or letter with the Department and the Department still sent the notice to the wrong address, penalty abatement may be warranted.
- B) Taxpayer was on active duty in the military. Taxpayers serving in the military may find themselves in situations where it takes an extraordinary length of time to receive and respond to a notice.
- F) Relevant factors used by the Department in determining the existence of reasonable cause.
 - 1) Could the taxpayer's federal filing status have caused confusion about his or her Illinois filing requirements? Under Illinois

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- law, many taxpayers that are not required to file with the Internal Revenue Service are required to file with the Department.
- 2) Does the taxpayer's reason address the penalty assessed? For example, if a taxpayer was assessed both a late filing and late payment penalty for the same return, the taxpayer's explanation of the failure to file and pay may apply to one penalty, but not the other.
 - 3) Does the length of time between the reason cited and the actual violation support abatement? If the taxpayer cites a specific event or set of events (e.g., illness, unexpected absence, or natural disaster) or set of events that led to the imposition of the penalty, the Department will determine whether those events are directly related to the return or payment under review.
 - 4) Could the event cited have been reasonably anticipated? Was the event one that should have been anticipated (e.g., a vacation or scheduled absence) or was it unexpected, unavoidable, or otherwise unplanned (e.g., an emergency or disaster)?
 - 5) Was ordinary business care and prudence exercised? In the absence of new or unusual circumstances, most filing and payment requirements are common knowledge or are readily available to most taxpayers. If the taxpayer did all that could be reasonably expected of him or her and was still unable to file or pay on time, reasonable cause may be present.

(Source: Amended at 25 Ill. Reg. 513.0, effective _____.)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Numbers: Adopted Action:
150.105 Amendment
150.1310 Amendment
- 4) Statutory Authority: 35 ILCS 105
- 5) Effective Date of Amendments: March 23, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:
11/17/00, 24 Ill. Reg. 17018
12/01/00, 24 Ill. Reg. 17507
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

Section Number Proposed Action in Register Citation

150.331	Amendment	01/26/01, 25 Ill. Reg. 1171
150.332	Amendment	01/26/01, 25 Ill. Reg. 1171
150.705	Amendment	02/02/01, 25 Ill. Reg. 1988

- 15) Summary and Purpose of Amendments: This rulemaking amends Section 150.105 by implementing Public Act 91-870, which provides that "prepaid telephone calling arrangements" shall be considered tangible personal property subject to Use Tax regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

developed. Provides the definition of "prepaid telephone calling arrangements" and what is excluded from the definition. This rulemaking adds up-to-date examples for retailers who are authorized to use the posted sign procedure. The amendment provides examples that use current tax rates - i.e., 6-1/4 % State and 1% (local) home-rule.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Gina Roccaforte
Kari Betz
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUEPART 150
USE TAX

SUBPART A: NATURE OF THE TAX

Section
150.101
150.105
150.110
150.115
150.120
150.125
150.130
150.135

Description of the Tax
Rate and Base of Tax
How To Compute Depreciation
How To Determine Effective Date
Effective Date of New Taxes
Effect of Use Tax to Retailers' Occupation Tax
Accounting for the Tax
How to Avoid Paying Tax on Use Tax Collected From the Purchaser

SUBPART B: DEFINITIONS

Section
150.201

General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section
150.301
150.305

150.306
150.310
150.315
150.320
150.325

Cross References
Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable
Interim Use and Demonstration Exemptions
Exemptions to Avoid Multi-State Taxation
Non-resident Exemptions
Meaning of "Acquired Outside This State"
Charitable, Religious, Educational and Senior Citizens Recreational Organizations as Buyers

150.330
150.331
150.332
150.335

150.336
150.337

Governmental Bodies as Buyers
Persons Who Lease Tangible Personal Property to Exempt Hospitals
Persons Who Lease Tangible Personal Property to Governmental Bodies
Game or Game Birds Purchased at Game Breeding and Hunting Areas or Exotic Game Hunting Areas
Fuel Brought into Illinois in Locomotives
Food, Drugs, Medicines and Medical Appliances When Purchased for Use by a Person Receiving Medical Assistance under the Illinois Public Aid Code

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

Section

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

150.401	Collection of the Tax by Retailers From Users
150.405	Tax Collection Brackets
150.410	Tax Collection Brackets for a 2-1/4% Rate of Tax (Repealed)
150.415	Tax Collection Brackets for a 2-1/2% Rate of Tax (Repealed)
150.420	Tax Collection Brackets for a 2-3/4% Rate of Tax (Repealed)
150.425	Tax Collection Brackets for a 3% Rate of Tax (Repealed)
150.430	Tax Collection Brackets for a 3-1/8% Rate of Tax (Repealed)
150.435	Tax Collection Brackets for a 3-1/4% Rate of Tax (Repealed)
150.440	Tax Collection Brackets for a 3-1/2% Rate of Tax (Repealed)
150.445	Tax Collection Brackets for a 3-3/4% Rate of Tax (Repealed)
150.450	Tax Collection Brackets for a 4% Rate of Tax (Repealed)
150.455	Tax Collection Brackets for a 4-1/8% Rate of Tax (Repealed)
150.460	Tax Collection Brackets for a 4-1/4% Rate of Tax (Repealed)
150.465	Tax Collection Brackets for a 4-1/2% Rate of Tax (Repealed)
150.470	Tax Collection Brackets for a 4-3/4% Rate of Tax (Repealed)
150.475	Tax Collection Brackets for a 5% Rate of Tax (Repealed)
150.480	Tax Collection Brackets for a 5-1/8% Rate of Tax (Repealed)
150.485	Tax Collection Brackets for a 5-1/4% Rate of Tax (Repealed)
150.490	Tax Collection Brackets for a 5-1/2% Rate of Tax (Repealed)
150.495	Tax Collection Brackets for a 5-3/4% Rate of Tax (Repealed)
150.500	Tax Collection Brackets for a 6% Rate of Tax (Repealed)
150.505	Optional 1% Schedule (Repealed)
150.510	Exact Collection of Tax Required When Practicable
150.515	Prohibition Against Retailer's Representing That He Will Absorb the Tax
150.520	Display of Tax Collection Schedule (Repealed)
150.525	Methods for Calculating Tax on Sales of Items Subject to Differing Tax Rates
Section 150.601	Repealed
SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS	
Section 150.701	When and Where to File a Return
150.705	Use Tax on Items that are Titled or Registered in Illinois
150.710	Procedure in Claiming Exemption from Use Tax
150.715	Receipt for Tax or Proof of Exemption Must Accompany Application for Title or Registration
150.716	Display Certificates for House Trailers
150.720	Issuance of Title or Registration Where Retailer Fails or Refuses to Remit Tax Collected by Retailer from User
150.725	Direct Payment of Tax by User to Department on Intrastate Purchase Under Certain Circumstances
150.730	Direct Reporting of Use Tax to Department by Registered Retailers

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section 150.801	When Out-of-State Retailers Must Register and Collect Use Tax
150.805	Voluntary Registration by Certain Out-of-State Retailers
150.810	Incorporation by Reference
SUBPART H: RETAILERS' RETURNS	
Section 150.901	When and Where to File
150.905	Deduction for Collecting Tax
150.910	Incorporation by Reference
150.915	Itemization of Receipts from Sales and the Tax Among the Different States from Which Sales are Made into Illinois
SUBPART I: PENALTIES, INTEREST, WAIVER OF LIMITATIONS AND ADMINISTRATIVE PROCEEDINGS	
Section 150.1001	General Information
Section 150.1101	General Information
SUBPART J: INCORPORATION OF ILLINOIS RETAILERS' OCCUPATION TAX REGULATIONS BY REFERENCE	
Section 150.1201	General Information
Section 150.1301	Users' Records
150.1305	Retailers' Records
150.1310	Use of Signs to Prove Collection of Tax as a Separate Item
150.1315	Consequence of Not Complying with Requirement of Collecting Separately from Reselling Price
150.1320	Incorporation by Reference
SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX	
Section 150.1401	Claims for Credit--Limitations--Procedure
150.1405	Disposition of Credit Memoranda by Holders Thereof

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

telecommunications using an access number, an authorization code, or both, whether manually or electronically aided, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. For purposes of this Section, "recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a different access number or authorization code. For purposes of this Section, "telecommunications" means that term as defined in Section 2 of the Telecommunications Excise Tax Act [35 ILCS 630]. "Prepaid telephone calling arrangement" does not include an arrangement whereby the service provider reflects the amount of the purchase as a credit on an account for a customer under an existing subscription plan. (Section 3-27 of the RCL)

(Source: Amended at 25 Ill. Reg. 11-1-94, effective 11-1-94.)

SUBPART L: BOOKS AND RECORDS

Section 150.1310 Use of Signs to Prove Collection of Tax as a Separate Item

a) If the retailer who is entitled to use the posted sign procedure wishes to comply with the requirement in question without raising his prices, he may do this by publicly displaying a sign stating that all tangible personal property for which a given charge is made is being sold for a specified amount, with the Use Tax and home rule or other local Retailers' Occupation Tax being a specified amount based on the applicable tax collection schedule that is set out in Subpart D of this Part, and with the total equaling the entire charge which the seller makes for such tangible personal property.

b) Another acceptable form of sign (assuming a 6.25% Use Tax and 1% local Retailers' Occupation Tax rate to be applicable) may read:

Charges from 08 1/3 cents to 22 2/5 cents, inclusive, represent 1 cent Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 23 1/6 cents to 36 4/6 cents, inclusive, represent 2 cents Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 37 4/7 cents to 51 6/7 cents, inclusive, represent 3 cents Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 52 6/8 cents to 66 8/8 cents, inclusive, represent 4 cents Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 67 8/9 cents to 81 cents, inclusive, represent 5 cents Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 82 cents to

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

150.1410 Refunds
150.1415 Interest

TABLE A Tax Collection Brackets

AUTHORITY: Implementing the Use Tax Act [35 ILCS 105] and authorized by Section 2505-90 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-90].

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11772, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623, effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at 15 Ill. Reg. 5861, effective April 5, 1991; emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2003, for a maximum of 150 days; amended at 25 Ill. Reg. 15039, effective 1-16-03.

SUBPART A: NATURE OF THE TAX

Section 150.105 Rate and Base of Tax

a) The rate of the Use Tax after December 31, 1989, is 6.25% of the selling price of the tangible personal property involved, provided that if the property that is purchased at retail from a retailer is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is nevertheless taxable under the Use Tax Act, the "selling price" on which the tax is computed shall be reduced by an amount which represents a reasonable allowance for depreciation for the period of such prior out-of-State use.

b) On and after January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under this Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. [Section 3 of the Act] "Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more intrastate, interstate, or international telephone calls or other

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

96 cents, inclusive, represent 6 cents Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold. Charges from 97 cents to \$1.10, inclusive, represent 7 cents Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; each additional charge of 13 or 14 ¢ represents, depending upon rounding, or any part thereof shall represent 1 cent Use Tax and local Retailers' Occupation Tax, and the balance shall represent the price of the merchandise being sold.

c) In the case of the first 2 types of signs referred to hereinabove, appropriate adjustments would have to be made if the rate of the local Retailers' Occupation Tax is not 1%.

d) The requirements in question will be met if the sign (when the sign procedure is authorized under the terms of this Section) states that the selling price of the tangible personal property includes the Use Tax and home rule or other local Retailers' Occupation Tax or some equivalent expression. The sign need not mention the local Retailers' Occupation Tax if the retailer is located in an area in which no local Retailers' Occupation Tax is in effect.

e) If a sign is relied on to lay the basis for saying that the Use Tax is being stated separately to the purchaser from the selling price of the property, the sign should be dated to indicate for what period it was in effect, and should be retained by the seller among his books and records in the event of a subsequent audit by the Department. Except in the case of fraud or the willful failure to file returns, the maximum period for keeping records for Use Tax purposes is 3 1/2 years.

(Source: Amended at 25 Ill. Reg. 5059 --, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: Proposed Action:
APPENDIX A, TABLE P Amend
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking: Section 1-5(d) of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)]
- 5) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 6) Effective Date: March 21, 2001
- 7) A Complete Description of the Subjects and Issues Involved: In Section 310, Appendix A, Table P RC-029, the salary range for the Drug Compliance Investigator is being upgraded from \$3,925 - \$5,142 to \$4,436 - \$5,856 to be effective for March 1, 2001.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: March 21, 2001

10) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

11) This amendment is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.

12) Are there any proposed amendments pending to this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
310.280	Amend	24 Ill. Reg. 15486
App. A, Table AB	Amend	24 Ill. Reg. 16151
310.290	Amend	24 Ill. Reg. 17384
310.280	Amend	25 Ill. Reg. 811
310.280	Amend	25 Ill. Reg. 1037
310.270	Amend	25 Ill. Reg. 1889

13) Statement of Statewide Policy Objectives: This amendment to the Pay Plan pertains only to State employees subject to the Personnel Code and does not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

14) Information and questions regarding this adopted amendment shall be

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
217/782-5601

PART 310
PAY PLAN

SUBPART A: NARRATIVE

The full text of the Peremptory Amendment begins on the next page:

Section	Policy and Responsibilities
310.20	Jurisdiction
310.30	Pay Schedules
310.40	Definitions
310.50	Conversion of Base Salary to Pay Period Units
310.60	Conversion of Base Salary to Daily or Hourly Equivalents
310.70	Increases in Pay
310.80	Decreases in Pay
310.90	Other Pay Provisions
310.100	Implementation of Pay Plan Changes for Fiscal Year 2000
310.110	Interpretation and Application of Pay Plan
310.120	Effective Date
310.130	Reinstitution of Within Grade Salary Increases (Repealed)
310.140	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective
310.150	July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	Introduction
310.205	Prevailing Rate
310.210	Negotiated Rate
310.220	Part-Time Daily or Hourly Special Services Rate
310.230	Hourly Rate
310.240	Member, Patient and Inmate Rate
310.250	Trainee Rate
310.260	Legislated and Contracted Rate
310.270	Designated Rate
310.280	Out-of-State or Foreign Service Rate
310.290	Educator Schedule for RC-063 and HR-010
310.300	Physician Specialist Rate
310.310	Annual Compensation Ranges for Executive Director and Assistant
310.320	Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PREEMPTORY AMENDMENT

Section	Jurisdiction
310.410	Objectives
310.420	Responsibilities
310.430	Merit Compensation Salary Schedule
310.440	Procedures for Determining Annual Merit Increases
310.446	Intermittent Merit Increase
310.454	Merit Zone (Repealed)
310.456	Other Pay Increases
310.460	Adjustment
310.470	Decreases in Pay
310.480	Other Pay Provisions
310.490	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Implementation
310.530	Annual Merit Increase Guidechart for Fiscal Year 2000
310.540	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)
310.550	

APPENDIX A Negotiated Rates of Pay

TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU) (Repealed)
TABLE C	RC-069 (Firefighters, AFSCME) (Repealed)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IPPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clinical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IPPE)
TABLE Q	RC-033 (Meal Inspectors, IPPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PREEMPTORY AMENDMENT

TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 2000
APPENDIX C	Medical Administrator Rates for Fiscal Year 2000
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 2000
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2000

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code (20 ILCS 415/8 and 8a).

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 6904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective June 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Reg. 640, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4386, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6294, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988; for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11776, effective July 1, 1988; for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8329, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 15053, effective October 1, 1993; emergency amendment at 17 Ill. Reg. 21508, effective December 1, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6680, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, amended at May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10844, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5344, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 11818, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10063, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 18, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 35, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 12607, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7005, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; peremptory amendment at 24 Ill. Reg. 16700, effective October 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; peremptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Section 310. TABLE PC-029 (Paraprofessional Investigatory and Law Enforcement Employee, IFPE)

Effective: July 1, 2000

	1	2	3	4	5	6	7
Agricultural Products Promoter	2476	2678	2679	2776	2879	3405	3100
Animal & Animal Products Investigator	2594	2698	2815	2918	3029	3245	3100
Apiary Inspector	1777	1831	1860	1941	1990	2088	2127
Breath Alcohol Analysis Technician	2713	2826	2938	3057	3171	3361	3427
Commodities Inspector	2186	2261	2343	2423	2506	2640	2689
Drug Compliance Investigator	3923	4118	4311	4511	4700	4991	5091
Environmental Protection Legal Investigator I	2378	2464	2563	2651	2749	2896	2952
Environmental Protection Legal Investigator II	2594	2698	2815	2918	3029	3205	3270
Explosives Inspector I	2594	2698	2815	2918	3029	3205	3270
Explosives Inspector II	2984	3127	3263	3484	3627	3732	3807
Fire Prevention Technician	2378	2464	2563	2651	2749	2896	2952
Fire Prevention Inspector I	2713	2826	2938	3057	3171	3361	3427
Fire Prevention Inspector II	3147	3283	3442	3584	3727	3943	4027
Guard I	1833	1891	1948	2002	2058	2155	2197
Guard II	2024	2083	2169	2235	2308	2426	2472
Guard III	2273	2354	2431	2533	2615	2756	2816
Licensing Assistant	1953	2019	2084	2149	2217	2330	2374
Licensing Investigator I	2273	2354	2445	2533	2615	2756	2810
Licensing Investigator II	2594	2698	2815	2918	3029	3205	3270
Licensing Investigator III	2713	2826	2938	3057	3171	3361	3427
Licensing Investigator IV	2984	3127	3263	3384	3527	3732	3807
Liquor Control Special Agent I	2476	2578	2679	2776	2879	3040	3100
Motorist Assistance Specialist	1953	2019	2084	2149	2217	2330	2374
Plant & Pesticide Specialist I	2844	2969	3094	3222	3351	3549	3620
Plant & Pesticide Specialist II	3147	3293	3442	3584	3727	3949	4027
Plumbing Inspector	3325	3481	3643	3786	3955	4194	4277
Polygraph Examiner I	3147	3293	3442	3584	3727	3949	4027
Polygraph Examiner II	3511	3675	3849	4016	4181	4437	4525
Polygraph Examiner III	3925	4118	4311	4511	4700	4991	5091
Products & Standards Inspector	2594	2698	2815	2918	3029	3205	3270
Security Officer	2476	2464	2563	2651	2749	2896	2952
Security Officer Sergeant	2713	2826	2938	3057	3171	3361	3427
Seed Analyst I	2273	2354	2445	2533	2615	2756	2810
Seed Analyst II	2378	2464	2563	2651	2749	2896	2952
Site Security Officer	2024	2093	2169	2235	2308	2426	2472
Truck Weighing Inspector	2186	2261	2343	2423	2506	2640	2689
Vehicle Compliance Inspector	2713	2826	2938	3057	3171	3361	3427
Vehicle Emissions Compliance	2378	2464	2563	2651	2749	2896	2952

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Section 310. TABLE PC-029 (Paraprofessional Investigatory and Law Enforcement Employee, IFPE)

Effective: July 1, 2000

	1	2	3	4	5	6	7
Inspector							
Vehicle Emissions Quality Assurance Auditor	2476	2578	2679	2776	2879	3040	3100
Vital Records Quality Control Inspector	2378	2464	2563	2651	2749	2896	2952
Warehouse Claims Specialist	3325	3481	3643	3796	3955	4194	4277
Warehouse Examiner	2713	2826	2938	3057	3171	3361	3427
Warehouse Examiner Specialist	2984	3127	3263	3384	3527	3732	3807
Well Inspector I	2594	2698	2815	2918	3029	3205	3270
Well Inspector II	2984	3127	3263	3384	3527	3732	3807
RC-029's Alternative Retirement Formula Schedule							
Effective July 1, 2000							
Arson Investigator I	3058	3187	3318	3452	3656	3729	3804
Arson Investigator II	3392	3546	3692	3839	4067	4148	4231
Arson Investigator III	3517	3671	3817	3964	4192	4273	4356
Commerce Commission Police Officer I	3058	3187	3318	3452	3656	3729	3804
Commerce Commission Police Officer II	3392	3546	3692	3839	4067	4148	4231
Commerce Commission Police Officer III	3517	3671	3817	3964	4192	4273	4356
Licensing Investigator I	2791	2908	3025	3150	3266	3461	3529
Licensing Investigator II	3058	3187	3318	3452	3656	3729	3804
Licensing Investigator III	3392	3546	3692	3839	4067	4148	4231
Police Officer I	3786	3965	4136	4307	4571	4661	
Police Officer II	4043	4241	4440	4646	4841	5141	5244
Polygraph Examiner	4043	4241	4440	4646	4841	5141	5244
Security Officer	2446	2535	2637	2728	2828	2981	3041
Security Officer Sergeant	2547	2652	2756	2856	2962	3131	3193
Note: The Step 7 rate shall be increased by \$50 per month for those employees (non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 7 in the same pay grade.							
The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II and III shall be placed in a longevity schedule receiving a salary increase of an additional \$50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same classification series.							
Effective: January 1, 2001							

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PREEMPTORY AMENDMENT

NOTICE OF PREEMPTORY AMENDMENT

	S T E P S				S T E P S (Cont.)			
	1	2	3	4	5	6	7	8
Agricultural Product Promoter	2476	2578	2679	2776				
Animal & Animal Products	2594	2698	2815	2918				
Investigator								
Aplary Inspector	1777	1831	1880	1941				
Breath Alcohol Analysis Technician	2713	2826	2938	3057				
Commodities Inspector	2186	2261	2343	2423				
Drug Compliance Investigator	3925	4118	4311	4511				
Environmental Protection Legal	2378	2464	2563	2651				
Investigator I								
Environmental Protection Legal	2594	2698	2815	2918				
Investigator II								
Explosives Inspector I	2594	2698	2815	2918				
Explosives Inspector II	2984	3122	3253	3384				
Fingerprint Technician	2378	2464	2563	2651				
Fire Prevention Inspector I	2713	2826	2938	3057				
Fire Prevention Inspector II	3147	3293	3442	3584				
Guard I	1833	1891	1948	2002				
Guard II	2621	2693	2769	2835				
Guard III	2273	2354	2445	2533				
Licensing Assistant	1953	2019	2084	2149				
Licensing Investigator I	2273	2354	2445	2533				
Licensing Investigator II	2594	2698	2815	2918				
Licensing Investigator III	2713	2826	2938	3057				
Licensing Investigator IV	2984	3122	3253	3384				
Liquor Control Special Agent I	2476	2578	2679	2776				
Motorist Assistance Specialist	1953	2019	2084	2149				
Plant & Pesticide Specialist I	2844	2969	3094	3222				
Plant & Pesticide Specialist II	3147	3293	3442	3584				
Plumbing Inspector	3325	3481	3643	3796				
Polygraph Examiner I	3147	3293	3442	3584				
Polygraph Examiner II	3511	3675	3849	4016				
Polygraph Examiner III	3925	4118	4311	4511				
Products & Standards Inspector	2594	2698	2815	2918				
Security Officer	2738	2864	2963	3057				
Security Officer Sergeant	2476	2578	2679	2776				
Seed Analyst I	2273	2354	2445	2533				
Seed Analyst II	2728	2864	2963	3057				
Site Security Officer	2024	2093	2169	2235				
Truck Weighing Inspector	2186	2261	2343	2423				
Vehicle Compliance Inspector	2713	2826	2938	3057				
Vehicle Emissions Compliance	2378	2464	2563	2651				
Inspector								
Vehicle Emissions Quality	2476	2578	2679	2776				
Assurance Auditor								
Vital Records Quality Control	2378	2464	2563	2651				
Inspector								
Warehouse Claims Specialist					3325	3481	3643	3796
Warehouse Examiner					2713	2826	2938	3057
Warehouse Examiner Specialist					2984	3122	3253	3384
Well Inspector I					2594	2698	2815	2918
Well Inspector II					2984	3122	3253	3384
Agricultural Product Promoter:								
Animal & Animal Products					2879	3040	3100	3131
Investigator					3029	3205	3270	3303
Aplary Inspector					1990	2088	2127	2148
Breath Alcohol Analysis Technician					3171	3361	3427	3461
Commodities Inspector					2506	2640	2689	2716
Drug Compliance Investigator					4700	4991	5091	5142
Environmental Protection Legal					2749	2896	2952	2982
Investigator I								
Environmental Protection Legal					3029	3205	3270	3303
Investigator II								
Explosives Inspector I					3029	3205	3270	3303
Explosives Inspector II					3522	3732	3807	3845
Fingerprint Technician					2749	2896	2952	2982
Fire Prevention Inspector I					3171	3361	3427	3461
Fire Prevention Inspector II					3727	3949	4027	4067
Guard I					2058	2155	2197	2219
Guard II					2308	2426	2472	2497
Guard III					2615	2756	2810	2838
Licensing Assistant					2217	2330	2374	2398
Licensing Investigator I					2615	2756	2810	2838
Licensing Investigator II					3029	3205	3270	3303
Licensing Investigator III					3171	3361	3427	3461
Licensing Investigator IV					3522	3732	3807	3845
Liquor Control Special Agent I					2879	3040	3100	3131
Motorist Assistance Specialist					2217	2330	2374	2398
Plant & Pesticide Specialist I					3351	3549	3620	3656
Plant & Pesticide Specialist II					3727	3949	4027	4067
Plumbing Inspector					3955	4194	4277	4320
Polygraph Examiner I					3727	3949	4027	4067
Polygraph Examiner II					4181	4437	4525	4570
Polygraph Examiner III					4700	4991	5091	5142
Products & Standards Inspector					3029	3205	3270	3303
Security Officer					2749	2896	2952	2982
Security Officer Sergeant					2879	3040	3100	3131
Seed Analyst I					2615	2756	2810	2838
Seed Analyst II					2749	2896	2952	2982
Site Security Officer					2308	2426	2472	2497
Truck Weighing Inspector					2506	2640	2689	2716
Vehicle Compliance Inspector					3171	3361	3427	3461

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PREEMPTORY AMENDMENT

NOTICE OF PREEMPTORY AMENDMENT

	Effective January 1, 2001			
	1	2	3	4
Vehicle Emissions Compliance Inspector	2749	2896	2952	2982
Vehicle Emissions Quality Assurance Auditor	2879	3040	3100	3131
Vital Records Quality Control Inspector	2749	2896	2952	2982
Warehouse Claims Specialist	3955	4194	4277	4320
Warehouse Examiner	3171	3361	3427	3461
Warehouse Examiner Specialist	3522	3732	3807	3846
Well Inspector I	3029	3205	3270	3303
Well Inspector II	3522	3732	3807	3846

RC-029 Alternative Retirement Formula Schedule

Effective January 1, 2001

	S T E P S			
	1	2	3	4
Arson Investigator I	3058	3187	3318	3452
Arson Investigator II	3392	3546	3692	3839
Arson Investigator II (Lead Worker)	3517	3671	3817	3964
Commerce Commission Police Officer I	3058	3187	3318	3452
Commerce Commission Police Officer II	3392	3546	3692	3839
Licensing Investigator III	2791	2908	3025	3150
Police Officer I	3058	3187	3318	3452
Police Officer II	3392	3546	3692	3839
Police Officer III	3616	3786	3965	4136
Polygraph Examiner III	3042	3231	3440	3646
Security Officer	2542	2552	2657	2728
Security Officer Sergeant	2547	2622	2756	2856

S T E P S (Cont.)

	S T E P S (Cont.)			
	5	6	7	8
Arson Investigator I	3656	3729	3804	3842
Arson Investigator II	4067	4148	4231	4273
Arson Investigator II (Lead Worker)	4192	4273	4356	4400
Commerce Commission Police Officer I	3656	3729	3804	3842
Commerce Commission Police Officer II	4067	4148	4231	4273
Licensing Investigator III	3266	3461	3529	3564
Police Officer I	3656	3729	3804	3842
Police Officer II	4067	4148	4231	4273
Police Officer III	4307	4571	4661	4708

Polygraph Examiner III
Security Officer
Security Officer Sergeant

Note: The Step 7 rate shall be increased by \$50 per month for those employees (non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 7 in the same pay grade.
The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II and III shall be placed in a longevity schedule receiving a salary increase of an additional \$50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same classification series.

Effective: March 1, 2001

	S T E P S			
	1	2	3	4
Drug Compliance Investigator	4436	4667	4892	5118
Drug Compliance Investigator	5349	5684	5798	5856

Effective: July 1, 2001

	S T E P S			
	1	2	3	4
Agricultural Product Promoter	2576	2678	2779	2880
Animal & Animal Products Investigator	2694	2799	2921	3027
Apary Inspector	1877	1931	1980	2041
Breath Alcohol Analysis Technician	2951	3080	3210	3343
Commodities Inspector	2286	2361	2443	2523
Drug Compliance Investigator	4602	4842	5075	5310
Environmental Protection Legal Investigator I	4472	4672	4879	5080
Environmental Protection Legal Investigator II	2478	2564	2663	2751
Explosives Inspector I	2694	2799	2921	3027
Explosives Inspector II	2694	2799	2921	3027
Fingerprint Technician	3096	3239	3375	3511
Fire Prevention Inspector I	2478	2564	2663	2751
Fire Prevention Inspector II	2815	2932	3048	3172
Guard I	3265	3416	3571	3718
Guard II	1933	1991	2048	2102
Guard III	2124	2193	2269	2335
Licensing Assistant	2373	2454	2545	2633
	2053	2119	2184	2249

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Licensing Investigator I	2373	2454	2545	2633
Licensing Investigator II	2694	2799	2921	3027
Licensing Investigator III	2815	2932	3048	3172
Licensing Investigator IV	3096	3239	3375	3511
Liquor Control Special Agent I	2576	2678	2779	2880
Motortist Assistance Specialist	2053	2119	2184	2249
Plant & Pesticide Specialist I	2951	3080	3210	3343
Plant & Pesticide Specialist II	3265	3416	3571	3718
Plumbing Inspector	3450	3612	3780	3938
Polygraph Examiner I	3265	3416	3571	3718
Polygraph Examiner II	3643	3813	3993	4167
Polygraph Examiner III	4072	4272	4473	4680
Products & Standards Inspector	2694	2799	2921	3027
Security Officer	2478	2564	2663	2751
Security Officer Sergeant	2576	2678	2779	2880
Seed Analyst I	2373	2454	2545	2633
Seed Analyst II	2478	2564	2663	2751
Site Security Officer	2124	2193	2269	2335
Truck Weighing Inspector	2286	2361	2443	2523
Vehicle Compliance Inspector	2951	3080	3210	3343
Vehicle Emissions Compliance Inspector	2576	2678	2779	2880
Vehicle Emissions Quality Assurance Auditor	2478	2564	2663	2751
Vital Records Quality Control Inspector	2478	2564	2663	2751
Warehouse Claims Specialist	3450	3612	3780	3938
Warehouse Examiner	2815	2932	3048	3172
Warehouse Examiner Specialist	3096	3239	3375	3511
Well Inspector I	2694	2799	2921	3027
Well Inspector II	3096	3239	3375	3511

S T E P S (Cont.)

	5	6	7	8
Agricultural Product Promoter	2987	3154	3216	3248
Animal & Animal Products Investigator	3143	3325	3393	3427
Apiary Inspector	2090	2188	2227	2249
Breath Alcohol Analysis Technician	3477	3682	3756	3794
Commodities Inspector	2606	2740	2790	2818
Drug Compliance Investigator	5550	5897	6015	6075
	4876	5178	5282	5335
Environmental Protection Legal Investigator I	2852	3005	3063	3094
Environmental Protection Legal Investigator II	3143	3325	3393	3427
Explosives Inspector I	3143	3325	3393	3427
Explosives Inspector II	3654	3872	3950	3990

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Fingerprint Technician	2852	3005	3063	3094
Fire Prevention Inspector I	3290	3487	3556	3592
Fire Prevention Inspector II	3867	4097	4178	4220
Guard I	2158	2255	2297	2328
Guard II	2408	2526	2572	2598
Guard III	2715	2859	2915	2944
Licensing Assistant	2317	2430	2474	2499
Licensing Investigator I	2715	2859	2915	2944
Licensing Investigator II	3143	3325	3393	3427
Licensing Investigator III	3290	3487	3556	3592
Licensing Investigator IV	3654	3872	3950	3990
Liquor Control Special Agent I	2987	3154	3216	3248
Motortist Assistance Specialist	2317	2430	2474	2499
Plant & Pesticide Specialist I	3477	3682	3756	3794
Plant & Pesticide Specialist II	3867	4097	4178	4220
Plumbing Inspector	4103	4351	4437	4481
Polygraph Examiner I	3867	4097	4178	4220
Polygraph Examiner II	4338	4603	4695	4742
Polygraph Examiner III	4876	5178	5282	5335
Products & Standards Inspector	3143	3325	3393	3427
Security Officer	2852	3005	3063	3094
Security Officer Sergeant	2987	3154	3216	3248
Seed Analyst I	2715	2859	2915	2944
Seed Analyst II	2852	3005	3063	3094
Site Security Officer	2408	2526	2572	2598
Truck Weighing Inspector	2606	2740	2790	2818
Vehicle Compliance Inspector	3477	3682	3756	3794
Vehicle Emissions Compliance Inspector	2987	3154	3216	3248
Vehicle Emissions Quality Assurance Auditor	2852	3005	3063	3094
Vital Records Quality Control Inspector	2852	3005	3063	3094
Warehouse Claims Specialist	4103	4351	4437	4481
Warehouse Examiner	3290	3487	3556	3592
Warehouse Examiner Specialist	3654	3872	3950	3990
Well Inspector I	3143	3325	3393	3427
Well Inspector II	3654	3872	3950	3990

PC-029 Alternative Retirement Formula Schedule

Effective July 1, 2001

	S T E P S			
	1	2	3	4
Arson Investigator I	3173	3307	3442	3581
Arson Investigator II	3519	3679	3830	3983
Arson Investigator II	3644	3804	3955	4108

ILLINOIS REGISTER

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Lead Worker	2951	3080	3210	3341
Commerce Commission	2286	2361	2443	2523
Police Officer I	4602	4842	5075	5314
Commerce Commission	4672	4772	4772	4672
Police Officer II	2478	2564	2663	2761
Licensing Investigator III	2694	2799	2921	3027
Police Officer I	2694	2799	2921	3027
Police Officer II	3096	3229	3375	3511
Police Officer III	2478	2564	2663	2761
Polygraph Examiner III	2815	2932	3048	3172
Security Officer	3265	3416	3571	3718
Security Officer Sergeant	1933	1991	2048	2102
Guard I	2124	2193	2269	2335
Guard II	2373	2454	2545	2633
Guard III	2053	2119	2184	2249
Licensing Assistant	2373	2454	2545	2633
Licensing Investigator I	2694	2799	2921	3027
Licensing Investigator II	2815	2932	3048	3172
Licensing Investigator III	3096	3229	3375	3511
Licensing Investigator IV	2576	2678	2779	2880
Liquor Control Special Agent I	2053	2119	2184	2249
Motorist Assistance Specialist	2951	3080	3210	3343
Plant & Pesticide Specialist I	3265	3416	3571	3718
Plant & Pesticide Specialist II	3450	3612	3780	3938
Plumbing Inspector	3265	3416	3571	3718
Polygraph Examiner I	3643	3813	3993	4167
Polygraph Examiner II	4072	4272	4473	4680
Polygraph Examiner III	2694	2799	2921	3027
Products & Standards Inspector	2478	2564	2663	2751
Security Officer	2576	2678	2779	2880
Security Officer Sergeant	2373	2454	2545	2633
Seed Analyst I	2478	2564	2663	2751
Seed Analyst II	2124	2193	2269	2335
Site Security Officer	2286	2361	2443	2523
Vehicle Compliance Inspector	2951	3080	3210	3343
Vehicle Emissions Compliance Inspector	2576	2678	2779	2880
Vehicle Emissions Quality Assurance Auditor	2478	2564	2663	2751
Vital Records Quality Control Inspector	3450	3612	3780	3938
Warehouse Claims Specialist	2815	2932	3048	3172
Warehouse Examiner	3096	3229	3375	3511
Warehouse Examiner Specialist	2694	2799	2921	3027
Well Inspector I	3096	3229	3375	3511
Well Inspector II	3096	3229	3375	3511

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

(Lead Worker)	3173	3307	3442	3581
Commerce Commission	3519	3679	3830	3993
Police Officer I	2896	3017	3138	3268
Licensing Investigator III	3173	3307	3442	3581
Police Officer I	3519	3679	3830	3993
Police Officer II	3752	3928	4114	4291
Police Officer III	4195	4400	4607	4820
Polygraph Examiner III	2545	2635	2737	2830
Security Officer	2647	2762	2859	2963
Security Officer Sergeant	3793	3869	3947	3986
Commerce Commission	4220	4304	4390	4434
Police Officer I	3388	3591	3661	3698
Licensing Investigator III	3793	3869	3947	3986
Police Officer I	4220	4304	4390	4434
Police Officer II	4469	4742	4836	4884
Police Officer III	5023	5334	5441	5495
Polygraph Examiner III	2934	3093	3155	3187
Security Officer	3073	3248	3313	3346
Security Officer Sergeant				

S T E P S (Cont.)

Note: The Step 7 rate shall be increased by \$50 per month for those employees (non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 7 in the same pay grade.
The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II and III shall be placed in a longevity schedule receiving a salary increase of an additional \$50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same Classification series.

Effective: January 1, 2002

	S T E P S			
	1	2	3	4
Agricultural Product Promoter	2576	2678	2779	2880
Animal & Animal Products Investigator	2694	2799	2921	3027
Apiary Inspector	1877	1931	1980	2041

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

	S T E P S (Cont.)				
	5	6	7	8	
Agricultural Product Promoter	2987	3154	3216	3280	
Animal & Animal Products Investigator	3143	3325	3393	3461	
Apiary Inspector	2090	2188	2227	2272	
Breath Alcohol Analysis Technician	3477	3682	3756	3831	
Commodities Inspector	2606	2740	2790	2848	
Drug Compliance Investigator	5550	5897	6015	6135	
Environmental Protection Legal Investigator I	4676	5479	5242	5484	
Environmental Protection Legal Investigator II	2852	3005	3063	3124	
Environmental Protection Legal Investigator III	3143	3325	3393	3461	
Explosives Inspector I	3143	3325	3393	3461	
Explosives Inspector II	3654	3872	3950	4029	
Fingerprint Technician	2852	3005	3063	3124	
Fire Prevention Inspector I	3290	3487	3556	3627	
Fire Prevention Inspector II	3867	4097	4178	4262	
Guard I	2158	2255	2297	2343	
Guard II	2408	2526	2572	2623	
Guard III	2715	2859	2915	2973	
Licensing Assistant	2317	2430	2474	2523	
Licensing Investigator I	2715	2859	2915	2973	
Licensing Investigator II	3143	3325	3393	3461	
Licensing Investigator III	3290	3487	3556	3627	
Licensing Investigator IV	3654	3872	3950	4029	
Liquor Control Special Agent I	2987	3154	3216	3280	
Motorist Assistance Specialist	2117	2430	2474	2523	
Plant & Pesticide Specialist I	3477	3682	3756	3831	
Plant & Pesticide Specialist II	3667	4097	4178	4262	
Plumbing Inspector	4103	4351	4437	4526	
Polygraph Examiner I	3867	4097	4178	4262	
Polygraph Examiner II	4338	4603	4695	4789	
Polygraph Examiner III	4876	5178	5282	5388	
Products & Standards Inspector	3143	3325	3393	3461	
Security Officer	2852	3005	3063	3124	
Security Officer Sergeant	2987	3154	3216	3280	
Seed Analyst I	2715	2859	2915	2973	
Seed Analyst II	2852	3005	3063	3124	
Site Security Officer	2408	2526	2572	2623	
Truck Weighing Inspector	2606	2740	2790	2846	
Vehicle Compliance Inspector	3477	3682	3756	3831	
Vehicle Emissions Compliance Inspector	2987	3154	3216	3280	
Vehicle Emissions Quality Assurance Auditor	2852	3005	3063	3124	
Vital Records Quality Control	2852	3005	3063	3124	

Note: The Step 7 rate shall be increased by \$50 per month for those employees

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

	S T E P S				
	1	2	3	4	
Inspector	4103	4351	4437	4526	
Warehouse Claims Specialist	3290	3487	3556	3627	
Warehouse Examiner	3654	3872	3950	4029	
Warehouse Examiner Specialist	3143	3325	3393	3461	
Well Inspector I	3654	3872	3950	4029	
Well Inspector II					

IC 129 Alternative Retirement Formula Schedule

Effective January 1, 2002

	S T E P S				
	1	2	3	4	
Arson Investigator I	3173	3307	3442	3581	
Arson Investigator II	3519	3679	3830	3983	
Arson Investigator III	3644	3804	3955	4108	
(Lead Worker)					
Commerce Commission	3173	3307	3442	3581	
Police Officer I	3519	3679	3830	3983	
Commerce Commission					
Police Officer II	2896	3017	3138	3268	
Licensing Investigator III	3173	3307	3442	3581	
Police Officer I	3519	3679	3830	3983	
Police Officer II	3752	3928	4114	4291	
Polygraph Examiner III	4185	4400	4607	4820	
Security Officer	2546	2635	2737	2830	
Security Officer Sergeant	2647	2752	2859	2963	

S T E P S (Cont.)

	S T E P S				
	5	6	7	8	
Arson Investigator I	3793	3869	3947	4026	
Arson Investigator II	4220	4304	4390	4478	
Arson Investigator III	4345	4429	4515	4603	
(Lead Worker)					
Commerce Commission	3793	3869	3947	4026	
Police Officer I	4220	4304	4390	4478	
Commerce Commission					
Police Officer II	3388	3591	3661	3734	
Licensing Investigator III	3793	3869	3947	4026	
Police Officer I	4220	4304	4390	4478	
Police Officer II	4469	4742	4836	4933	
Polygraph Examiner III	5023	5334	5441	5550	
Security Officer	2934	3093	3155	3218	
Security Officer Sergeant	3073	3248	3313	3379	

Note: The Step 7 rate shall be increased by \$50 per month for those employees

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

(non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 7 in the same pay grade.
The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II and III shall be placed in a longevity schedule receiving a salary increase of an additional \$50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same classification series.

Effective: July 1, 2002

S T E P S

Agricultural Product Promoter

Animal & Animal Products

Investigator

Apiry Inspector

Breath Alcohol Analysis Technician

Commodities Inspector

Drug Compliance Investigator

Environmental Protection Legal

Investigator I

Investigator II

Explosives Inspector I

Explosives Inspector II

Fingerprint Technician

Fire Prevention Inspector I

Fire Prevention Inspector II

Guard I

Guard II

Guard III

Licensing Assistant

Licensing Investigator I

Licensing Investigator II

Licensing Investigator III

Licensing Investigator IV

Liquor Control Special Agent I

Motorist Assistance Specialist

Plant & Pesticide Specialist I

Plant & Pesticide Specialist II

Plumbing Inspector

Polygraph Examiner I

Polygraph Examiner II

Polygraph Examiner III

Products & Standards Inspector

Security Officer

Security Officer Sergeant

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Seed Analyst I
Seed Analyst II
Site Security Officer
Truck Weighing Inspector
Vehicle Compliance Inspector
Vehicle Emissions Compliance Inspector
Vehicle Emissions Quality Assurance Auditor
Vital Records Quality Control Inspector
Warehouse Claims Specialist
Warehouse Examiner
Warehouse Examiner Specialist
Well Inspector I
Well Inspector II

Agricultural Product Promoter
Animal & Animal Products
Investigator
Apiry Inspector
Breath Alcohol Analysis Technician
Commodities Inspector
Drug Compliance Investigator
Environmental Protection Legal
Investigator I
Investigator II
Explosives Inspector I
Explosives Inspector II
Fingerprint Technician
Fire Prevention Inspector I
Fire Prevention Inspector II
Guard I
Guard II
Guard III
Licensing Assistant
Licensing Investigator I
Licensing Investigator II
Licensing Investigator III
Licensing Investigator IV
Liquor Control Special Agent I
Motorist Assistance Specialist
Plant & Pesticide Specialist I
Plant & Pesticide Specialist II

2473 2554 2645 2733
2578 2664 2763 2854
2778 2864 2954 3044
2986 3076 3166 3256
3286 3376 3466 3556
3676 3766 3856 3946
4036 4126 4216 4306
4396 4486 4576 4666
4756 4846 4936 5026
5106 5196 5286 5376
5456 5546 5636 5726
5886 5976 6066 6156
6316 6406 6496 6586
6736 6826 6916 7006
7156 7246 7336 7426
7576 7666 7756 7846
7996 8086 8176 8266
8406 8496 8586 8676
8806 8896 8986 9076
9206 9296 9386 9476
9606 9696 9786 9876
10006 10096 10186 10276
10476 10566 10656 10746
10976 11066 11156 11246
11576 11666 11756 11846
12076 12166 12256 12346
12676 12766 12856 12946
13276 13366 13456 13546
13976 14066 14156 14246
14676 14766 14856 14946
15276 15366 15456 15546
15976 16066 16156 16246
16676 16766 16856 16946
17276 17366 17456 17546
17976 18066 18156 18246
18676 18766 18856 18946
19276 19366 19456 19546
19976 20066 20156 20246
20676 20766 20856 20946
21276 21366 21456 21546
21976 22066 22156 22246
22676 22766 22856 22946
23276 23366 23456 23546
23976 24066 24156 24246
24676 24766 24856 24946
25276 25366 25456 25546
25976 26066 26156 26246
26676 26766 26856 26946
27276 27366 27456 27546
27976 28066 28156 28246
28676 28766 28856 28946
29276 29366 29456 29546
29976 30066 30156 30246
30676 30766 30856 30946
31276 31366 31456 31546
31976 32066 32156 32246
32676 32766 32856 32946
33276 33366 33456 33546
33976 34066 34156 34246
34676 34766 34856 34946
35276 35366 35456 35546
35976 36066 36156 36246
36676 36766 36856 36946
37276 37366 37456 37546
37976 38066 38156 38246
38676 38766 38856 38946
39276 39366 39456 39546
39976 40066 40156 40246
40676 40766 40856 40946
41276 41366 41456 41546
41976 42066 42156 42246
42676 42766 42856 42946
43276 43366 43456 43546
43976 44066 44156 44246
44676 44766 44856 44946
45276 45366 45456 45546
45976 46066 46156 46246
46676 46766 46856 46946
47276 47366 47456 47546
47976 48066 48156 48246
48676 48766 48856 48946
49276 49366 49456 49546
49976 50066 50156 50246
50676 50766 50856 50946
51276 51366 51456 51546
51976 52066 52156 52246
52676 52766 52856 52946
53276 53366 53456 53546
53976 54066 54156 54246
54676 54766 54856 54946
55276 55366 55456 55546
55976 56066 56156 56246
56676 56766 56856 56946
57276 57366 57456 57546
57976 58066 58156 58246
58676 58766 58856 58946
59276 59366 59456 59546
59976 60066 60156 60246
60676 60766 60856 60946
61276 61366 61456 61546
61976 62066 62156 62246
62676 62766 62856 62946
63276 63366 63456 63546
63976 64066 64156 64246
64676 64766 64856 64946
65276 65366 65456 65546
65976 66066 66156 66246
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67976 68066 68156 68246
68676 68766 68856 68946
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70676 70766 70856 70946
71276 71366 71456 71546
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72676 72766 72856 72946
73276 73366 73456 73546
73976 74066 74156 74246
74676 74766 74856 74946
75276 75366 75456 75546
75976 76066 76156 76246
76676 76766 76856 76946
77276 77366 77456 77546
77976 78066 78156 78246
78676 78766 78856 78946
79276 79366 79456 79546
79976 80066 80156 80246
80676 80766 80856 80946
81276 81366 81456 81546
81976 82066 82156 82246
82676 82766 82856 82946
83276 83366 83456 83546
83976 84066 84156 84246
84676 84766 84856 84946
85276 85366 85456 85546
85976 86066 86156 86246
86676 86766 86856 86946
87276 87366 87456 87546
87976 88066 88156 88246
88676 88766 88856 88946
89276 89366 89456 89546
89976 90066 90156 90246
90676 90766 90856 90946
91276 91366 91456 91546
91976 92066 92156 92246
92676 92766 92856 92946
93276 93366 93456 93546
93976 94066 94156 94246
94676 94766 94856 94946
95276 95366 95456 95546
95976 96066 96156 96246
96676 96766 96856 96946
97276 97366 97456 97546
97976 98066 98156 98246
98676 98766 98856 98946
99276 99366 99456 99546
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101976 102066 102156 102246
102676 102766 102856 102946
103276 103366 103456 103546
103976 104066 104156 104246
104676 104766 104856 104946
105276 105366 105456 105546
105976 106066 106156 106246
106676 106766 106856 106946
107276 107366 107456 107546
107976 108066 108156 108246
108676 108766 108856 108946
109276 109366 109456 109546
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110676 110766 110856 110946
111276 111366 111456 111546
111976 112066 112156 112246
112676 112766 112856 112946
113276 113366 113456 113546
113976 114066 114156 114246
114676 114766 114856 114946
115276 115366 115456 115546
115976 116066 116156 116246
116676 116766 116856 116946
117276 117366 117456 117546
117976 118066 118156 118246
118676 118766 118856 118946
119276 119366 119456 119546
119976 120066 120156 120246
120676 120766 120856 120946
121276 121366 121456 121546
121976 122066 122156 122246
122676 122766 122856 122946
123276 123366 123456 123546
123976 124066 124156 124246
124676 124766 124856 124946
125276 125366 125456 125546
125976 126066 126156 126246
126676 126766 126856 126946
127276 127366 127456 127546
127976 128066 128156 128246
128676 128766 128856 128946
129276 129366 129456 129546
129976 130066 130156 130246
130676 130766 130856 130946
131276 131366 131456 131546
131976 132066 132156 132246
132676 132766 132856 132946
133276 133366 133456 133546
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134676 134766 134856 134946
135276 135366 135456 135546
135976 136066 136156 136246
136676 136766 136856 136946
137276 137366 137456 137546
137976 138066 138156 138246
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141276 141366 141456 141546
141976 142066 142156 142246
142676 142766 142856 142946
143276 143366 143456 143546
143976 144066 144156 144246
144676 144766 144856 144946
145276 145366 145456 145546
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146676 146766 146856 146946
147276 147366 147456 147546
147976 148066 148156 148246
148676 148766 148856 148946
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149976 150066 150156 150246
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151276 151366 151456 151546
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155276 155366 155456 155546
155976 156066 156156 156246
156676 156766 156856 156946
157276 157366 157456 157546
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159976 160066 160156 160246
160676 160766 160856 160946
161276 161366 161456 161546
161976 162066 162156 162246
162676 162766 162856 162946
163276 163366 163456 163546
163976 164066 164156 164246
164676 164766 164856 164946
165276 165366 165456 165546
165976 166066 166156 166246
166676 166766 166856 166946
167276 167366 167456 167546
167976 168066 168156 168246
168676 168766 168856 168946
169276 169366 169456 169546
169976 170066 170156 170246
170676 170766 170856 170946
171276 171366 171456 171546
171976 172066 172156 172246
172676 172766 172856 172946
173276 173366 173456 173546
173976 174066 174156 174246
174676 174766 174856 174946
175276 175366 175456 175546
175976 176066 176156 176246
176676 176766 176856 176946
177276 177366 177456 177546
177976 178066 178156 178246
178676 178766 178856 178946
179276 179366 179456 179546
179976 180066 180156 180246
180676 180766 180856 180946
181276 181366 181456 181546
181976 182066 182156 182246
182676 182766 182856 182946
183276 183366 183456 183546
183976 184066 184156 184246
184676 184766 184856 184946
185276 185366 185456 185546
185976 186066 186156 186246
186676 186766 186856 186946
187276 187366 187456 187546
187976 188066 188156 188246
188676 188766 188856 188946
189276 189366 189456 189546
189976 190066 190156 190246
190676 190766 190856 190946
191276 191366 191456 191546
191976 192066 192156 192246
192676 192766 192856 192946
193276 193366 193456 193546
193976 194066 194156 194246
194676 194766 194856 194946
195276 195366 195456 195546
195976 196066 196156 196246
196676 196766 196856 196946
197276 197366 197456 197546
197976 198066 198156 198246
198676 198766 198856 198946
199276 199366 199456 199546
199976 200066 200156 200246
200676 200766 200856 200946
201276 201366 201456 201546
201976 202066 202156 202246
202676 202766 202856 202946
203276 203366 203456 203546
203976 204066 204156 204246
204676 204766 204856 204946
205276 205366 205456 205546
205976 206066 206156 206246
206676 206766 206856 206946
207276 207366 207456 207546
207976 208066 208156 208246
208676 208766 208856 208946
209276 209366 209456 209546
209976 210066 210156 210246
210676 210766 210856 210946
211276 211366 211456 211546
211976 212066 212156 212246
212676 212766 212856 212946
213276 213366 213456 213546
213976 214066 214156 214246
214676 214766 214856 214946
215276 215366 215456 215546
215976 216066 216156 216246
216676 216766 216856 216946
217276 217366 217456 217546
217976 218066 218156 218246
218676 2187

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Plumbing Inspector	4257	4514	4603	4695
Polygraph Examiner I	4012	4251	4335	4422
Polygraph Examiner II	4501	4776	4871	4968
Polygraph Examiner III	5059	5372	5480	5590
Products & Standards Inspector	3261	3450	3520	3590
Security Officer	2959	3118	3178	3242
Security Officer Sergeant	3099	3272	3337	3404
Seed Analyst I	2817	2966	3024	3084
Seed Analyst II	2959	3118	3178	3242
Site Security Officer	2508	2626	2672	2725
Truck Weighing Inspector	2706	2843	2895	2953
Vehicle Compliance Inspector	3603	3815	3892	3970
Vehicle Emissions Compliance Inspector	3099	3272	3337	3404
Vehicle Emissions Quality Assurance Auditor	2959	3118	3178	3242
Vital Records Quality Control Inspector	2959	3118	3178	3242
Warehouse Claims Specialist	4257	4514	4603	4695
Warehouse Examiner	3413	3618	3699	3763
Warehouse Examiner Specialist	3791	4017	4098	4180
Well Inspector I	3261	3450	3520	3590
Well Inspector II	3791	4017	4098	4180

RC-029 Alternative Retirement Formula Schedule

Effective January 1, 2002

	S T E P S			
	1	2	3	4
Arson Investigator I	3292	3431	3571	3715
Arson Investigator II	3292	3431	3571	3715
Arson Investigator II (Lead Worker)	3776	3942	4099	4257
Commerce Commission Police Officer I	3292	3431	3571	3715
Commerce Commission Police Officer II	3651	3817	3974	4132
Licensing Investigator III	3005	3130	3256	3391
Police Officer I	3292	3431	3571	3715
Police Officer II	3651	3817	3974	4132
Police Officer III	3893	4075	4268	4452
Polygraph Examiner III	4352	4565	4780	5001
Security Officer	2646	2735	2840	2938
Security Officer Sergeant	2747	2855	2966	3074

S T E P S (Cont.)

5 6 7 8

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Arson Investigator I	3935	4014	4095	4177
Arson Investigator II	4378	4465	4555	4646
Arson Investigator II (Lead Worker)	4503	4590	4680	4771
Commerce Commission Police Officer I	3935	4014	4095	4177
Commerce Commission Police Officer II	4378	4465	4555	4646
Licensing Investigator III	3515	3726	3798	3874
Police Officer I	3935	4014	4095	4177
Police Officer II	4378	4465	4555	4646
Police Officer III	4637	4920	5017	5117
Polygraph Examiner III	5211	5514	5645	5758
Polygraph Examiner III	3044	3209	3273	3338
Security Officer	3188	3370	3437	3506

Note: The Step 7 rate shall be increased by \$50 per month for those employees (non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 7 in the same pay grade.

The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II, and III shall be placed in a longevity schedule receiving a salary increase of an additional \$50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same Classification Series.

Effective January 1, 2003

	S T E P S			
	1	2	3	4
Agricultural Product Promoter	2676	2778	2883	2988
Animal & Animal Products Investigator	2795	2904	3031	3141
Apiary Inspector	1977	2031	2080	2141
Breath Alcohol Analysis Technician	3058	3191	3326	3464
Commodities Inspector	2386	2461	2543	2623
Drug Compliance Investigator	4775	5024	5265	5509
Environmental Protection Legal Investigator I	4225	4432	4641	4856
Environmental Protection Legal Investigator II	2578	2664	2763	2854
Environmental Protection Legal Investigator III	2795	2904	3031	3141
Explosives Inspector I	2795	2904	3031	3141
Explosives Inspector II	3212	3360	3502	3643
Fingerprint Technician	2578	2664	2763	2854
Fire Prevention Inspector I	2921	3042	3162	3291
Fire Prevention Inspector II	3387	3544	3705	3857
Guard I	2033	2091	2148	2202
Guard II	2224	2293	2369	2435

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Guard III	2473	2554	2645	2733
Licensing Assistant	2153	2219	2284	2349
Licensing Investigator I	2473	2554	2645	2733
Licensing Investigator II	2795	2904	3031	3141
Licensing Investigator III	2921	3042	3162	3291
Licensing Investigator IV	3212	3360	3502	3643
Licensing Investigator V	2795	2904	3031	3141
Liquor Control Special Agent I	2153	2219	2284	2349
Motorist Assistance Specialist	3062	3196	3330	3468
Plant & Pesticide Specialist I	3387	3544	3703	3857
Plant & Pesticide Specialist II	3579	3747	3922	4086
Plumbing Inspector	1787	3543	3705	3857
Polygraph Examiner I	1780	3956	4183	4324
Polygraph Examiner II	4425	4432	4641	4856
Polygraph Examiner III	2795	2904	3031	3141
Products & Standards Inspector	2778	2864	2953	3044
Security Officer	2676	2778	2883	2988
Security Officer Sergeant	2473	2554	2645	2733
Seed Analyst I	2578	2664	2763	2854
Seed Analyst II	2578	2664	2763	2854
Site Security Officer	2224	2293	2369	2435
Truck Weighing Inspector	2386	2461	2543	2623
Vehicle Compliance Inspector	3058	3191	3326	3464
Vehicle Emissions Compliance Inspector	2676	2778	2883	2988
Vehicle Emissions Quality Assurance Auditor	2578	2664	2763	2854
Vital Records Quality Control Inspector	2578	2664	2763	2854
Warehouse Claims Specialist	3579	3747	3922	4086
Warehouse Examiner	2921	3042	3162	3291
Warehouse Examiner Specialist	3212	3360	3502	3643
Well Inspector I	2795	2904	3031	3141
Well Inspector II	3212	3360	3502	3643

S T E P S (Cont.)

	5	6	7	8
Agricultural Product Promoter	3099	3272	3337	3437
Animal & Animal Products Investigator	3261	3450	3520	3626
Apiary Inspector	2190	2288	2327	2397
Breath Alcohol Analysis Technician	3603	3815	3892	4009
Commodities Inspector	2706	2843	2895	2982
Drug Compliance Investigator	5758	6118	6241	6428
Environmental Protection Legal Investigator I	5059	5372	5489	5644
Environmental Protection Legal Investigator II	2959	3118	3178	3273
	3261	3450	3520	3626

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Explosives Inspector I	3261	3450	3520	3626
Explosives Inspector II	3791	4017	4098	4221
Fingerprint Technician	2959	3118	3178	3273
Fire Prevention Inspector I	3413	3618	3689	3800
Fire Prevention Inspector II	4012	4251	4355	4467
Guard I	2258	2355	2397	2469
Guard II	2508	2626	2672	2757
Guard III	2817	2966	3024	3115
Licensing Assistant	2417	2530	2574	2651
Licensing Investigator I	2817	2966	3024	3115
Licensing Investigator II	3261	3450	3520	3626
Licensing Investigator III	3413	3618	3689	3800
Licensing Investigator IV	3791	4017	4098	4221
Liquor Control Special Agent I	3261	3450	3520	3626
Motorist Assistance Specialist	2417	2530	2574	2651
Plant & Pesticide Specialist I	3607	3820	3897	4014
Plant & Pesticide Specialist II	4012	4251	4355	4467
Plumbing Inspector	4257	4514	4603	4741
Polygraph Examiner I	4012	4254	4355	4465
Polygraph Examiner II	4501	4776	4871	5017
Polygraph Examiner III	5059	5372	5480	5644
Products & Standards Inspector	3261	3450	3520	3626
Security Officer	2959	3118	3178	3273
Security Officer Sergeant	3099	3272	3337	3437
Seed Analyst I	2817	2966	3024	3115
Seed Analyst II	2959	3118	3178	3273
Seed Security Officer	2508	2626	2672	2757
Truck Weighing Inspector	2706	2843	2895	2982
Vehicle Compliance Inspector	3058	3191	3326	3464
Vehicle Emissions Compliance Inspector	3093	3272	3337	3437
Vehicle Emissions Quality Assurance Auditor	2959	3118	3178	3273
Vital Records Quality Control Inspector	2959	3118	3178	3273
Warehouse Claims Specialist	4257	4514	4603	4741
Warehouse Examiner	3413	3618	3689	3800
Warehouse Examiner Specialist	3791	4017	4098	4221
Well Inspector I	3261	3450	3520	3626
Well Inspector II	3791	4017	4098	4221

RC-029 Alternative Retirement Formula Schedule

Effective January 1, 2015

	1	2	3	4
Arson Investigator I	3292	3431	3571	3715

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Arson Investigator II	3651	3817	3974	4132
Arson Investigator II (Lead Worker)	3776	3942	4099	4257
Commerce Commission Police Officer I	3292	3431	3571	3715
Commerce Commission Police Officer II	3651	3817	3974	4132
Licensing Investigator III	3005	3130	3256	3391
Police Officer I	3292	3431	3571	3715
Police Officer II	3651	3817	3974	4132
Police Officer III	3893	4075	4269	4452
Polygraph Examiner III	4352	4565	4780	5001
Security Officer	2646	2725	2840	2936
Security Officer Sergeant	2747	2855	2966	3074
S T E P S (Cont.)				
	5	6	7	8
Arson Investigator I	3935	4014	4095	4218
Arson Investigator II	4378	4465	4555	4692
Arson Investigator II (Lead Worker)	4503	4590	4680	4817
Commerce Commission Police Officer I	3935	4014	4095	4218
Commerce Commission Police Officer II	4378	4465	4555	4692
Licensing Investigator III	3515	3726	3798	3912
Police Officer I	3935	4014	4095	4218
Police Officer II	4378	4465	4555	4692
Police Officer III	4637	4920	5017	5168
Polygraph Examiner III	5211	5534	5645	5814
Security Officer	3044	3209	3273	3371
Security Officer Sergeant	3188	3370	3437	3540

Note: The Step 7 rate shall be increased by \$50 per month for those employees (non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 7 in the same pay grade.

The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II and III shall be placed in a longevity schedule receiving a salary increase of an additional \$50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same classification series.

Effective: July 1, 2003

Agricultural Product Promoter
Animal & Animal Products

1 2 3 4
2783 2889 2998 3108
2907 3020 3152 3267

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Investigator	2077	2131	2180	2241
Aplary Inspector	3165	3302	3442	3585
Breath Alcohol Analysis Technician	2486	2561	2645	2728
Commodities Inspector	9966	5235	5476	5723
Drug Compliance Investigator	4394	4609	4827	5054
Environmental Protection Legal Investigator I	2681	2771	2874	2968
Environmental Protection Legal Investigator II	2907	3020	3152	3267
Explosives Inspector I	2907	3020	3152	3267
Explosives Inspector II	3340	3494	3642	3784
Fingerprint Technician	2681	2771	2874	2968
Fire Prevention Inspector I	3038	3164	3288	3423
Fire Prevention Inspector II	3522	3686	3853	4011
Guard I	2133	2191	2248	2302
Guard II	2324	2393	2459	2525
Guard III	2573	2656	2751	2842
Licensing Assistant	2253	2319	2384	2449
Licensing Investigator I	2573	2656	2751	2842
Licensing Investigator II	2907	3020	3152	3267
Licensing Investigator III	3038	3164	3288	3423
Licensing Investigator IV	3340	3494	3642	3789
Liquor Control Special Agent I	2907	3020	3152	3267
Motorist Assistance Specialist	2253	2319	2384	2449
Plant & Pesticide Specialist I	3184	3324	3463	3607
Plant & Pesticide Specialist II	3522	3686	3853	4011
Plumbing Inspector	3722	3897	4079	4249
Polygraph Examiner I	3522	3686	3853	4011
Polygraph Examiner II	3931	4114	4309	4496
Polygraph Examiner III	4394	4609	4827	5050
Products & Standards Inspector	2907	3020	3152	3267
Security Officer	2681	2771	2874	2968
Security Officer Sergeant	2783	2889	2998	3108
Seed Analyst I	2573	2656	2751	2842
Seed Analyst II	2681	2771	2874	2968
Site Security Officer	3324	3393	3469	3535
Truck Weighing Inspector	2486	2561	2645	2728
Vehicle Compliance Inspector	3165	3302	3442	3585
Vehicle Emissions Compliance Inspector	2783	2889	2998	3108
Vehicle Emissions Quality Assurance Auditor	2681	2771	2874	2968
Vital Records Quality Control Inspector	2681	2771	2874	2968
Warehouse Claims Specialist	3722	3897	4079	4249
Warehouse Examiner	3038	3164	3288	3423
Warehouse Examiner Specialist	3340	3494	3642	3789

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PEREMPTORY AMENDMENT

	2907	3020	3152	3267	S T E P S (Cont.)				
	3340	3494	3642	3789	5	6	7	8	
Well Inspector I	3223	3403	3478	3574	3391	3588	3661	3771	
Well Inspector II									
Agricultural Product Promoter									
Animal & Animal Products Investigator	2290	2388	2427	2500	3722	3944	4028	4144	
Apiary Inspector	2814	2957	3011	3101	3588	3661	3771		
Breath Alcohol Analysis Technician	5988	6363	6491	6621	3391	3588	3661	3771	
Drug Compliance Investigator	5261	5587	5699	5870					
Environmental Protection Legal Investigator I	3077	3243	3305	3404					
Environmental Protection Legal Investigator II									
Explosives Inspector I	3391	3588	3661	3771					
Explosives Inspector II	3391	3588	3661	3771					
Fingerprint Technician	3077	3243	3305	3404					
Fire Prevention Inspector I	3550	3763	3837	3952					
Fire Prevention Inspector II	4172	4421	4508	4643					
Guard I	2358	2455	2497	2572					
Guard II	2608	2731	2779	2862					
Guard III	2930	3085	3145	3239					
Licensing Assistant	2517	2631	2677	2757					
Licensing Investigator I	2930	3085	3145	3239					
Licensing Investigator II	3391	3588	3661	3771					
Licensing Investigator III	3550	3763	3837	3952					
Licensing Investigator IV	3943	4178	4262	4390					
Liquor Control Special Agent I	3391	3588	3661	3771					
Motorist Assistance Specialist	2517	2631	2677	2757					
Plant & Pesticide Specialist I	3751	3973	4058	4175					
Plant & Pesticide Specialist II	4172	4421	4508	4643					
Plumbing Inspector	4427	4695	4787	4931					
Polygraph Examiner I	4172	4421	4508	4643					
Polygraph Examiner II	4681	4967	5066	5218					
Polygraph Examiner III	5261	5587	5699	5870					
Products & Standards Inspector	3391	3588	3661	3771					
Security Officer	3077	3243	3305	3404					
Security Officer Sergeant	3223	3403	3470	3574					
Seed Analyst I	2930	3085	3145	3239					
Seed Analyst II	3077	3243	3305	3404					
Site Security Officer	2608	2731	2779	2862					
Truck Weighing Inspector	2814	2957	3011	3101					
Vehicle Compliance Inspector	3729	3948	4028	4144					
Vehicle Emissions Compliance Inspector	3223	3403	3470	3574					

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PEREMPTORY AMENDMENT

Vehicle Emissions Quality Assurance Auditor					3077	3243	3305	3404
Vital Records Quality Control Inspector					3077	3243	3305	3404
Warehouse Claims Specialist					4427	4694	4787	4931
Warehouse Examiner					3550	3763	3837	3952
Warehouse Examiner Specialist					3943	4178	4262	4390
Well Inspector I					3391	3588	3661	3771
Well Inspector II					3943	4178	4262	4390
RC-029 Alternative Retirement Formula Schedule								
Effective July 1, 2003								
					1	2	3	4
Arson Investigator I					3424	3568	3714	3864
Arson Investigator II					3797	3970	4133	4297
Arson Investigator III (Lead Worker)					3943	4095	4178	4297
Commerce Commission					3424	3568	3714	3864
Commerce Commission Police Officer I					3797	3970	4133	4297
Commerce Commission Police Officer II					3125	3255	3386	3527
Licensing Investigator III					3424	3568	3714	3864
Police Officer I					3797	3970	4133	4297
Police Officer II					4040	4234	4390	4546
Police Officer III					4427	4695	4787	4931
Polygraph Examiner III					2757	2862	2969	3197
Security Officer					2857	2969	3085	3197
Security Officer Sergeant					2857	2969	3085	3197
					5	6	7	8
					S T E P S (Cont.)			
Arson Investigator I					4092	4175	4259	4387
Arson Investigator II					4553	4644	4737	4879
Arson Investigator III (Lead Worker)					4678	4769	4862	5001
Commerce Commission					4092	4175	4259	4387
Commerce Commission Police Officer I					4553	4644	4737	4879
Commerce Commission Police Officer II					3656	3875	3950	4069
Licensing Investigator III					4092	4175	4259	4387
Police Officer I					4553	4644	4737	4879
Police Officer II					4822	5117	5218	5375
Police Officer III					5419	5755	5871	6047
Polygraph Examiner III					3166	3337	3404	3506
Security Officer								

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Security Officer Sergeant

3316 3505 3574 3681

Note: The Step 7 rate shall be increased by \$50 per month for those employees (non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 7 in the same pay grade.

The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II and III shall be placed in a longevity schedule receiving a salary increase of an additional \$50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same classification series.

(Source: Amended by peremptory rulemaking at 25 Ill. Reg. 5067, effective March 21, 2001)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF EMERGENCY SUSPENSION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(c) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1999), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended for 180 days the license of Ahdus and Associates, Ltd. of Joliet, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 4, 2001.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF EMERGENCY SUSPENSION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(c) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1999), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended for 180 days the license of Primestar Funding Corporation of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 27, 2001.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF EMERGENCY SUSPENSION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(c) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1999), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended for 180 days the license of First United Financial Bancorp., of Arlington Heights, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 27, 2001.

Pursuant to Section 4-5(c) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1999), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended for 180 days the license of Pinnacle Bancorp, Inc. of Arlington Heights, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 27, 2001.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF EMERGENCY SUSPENSION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(c) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1999), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended for 180 days the license of Financial Resource Center Mortgage of Schaumburg, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 27, 2001.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1999), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of \$550 dollars against Creative Financial Solutions of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 26, 2001.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1994), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of American Dream Mortgage Company of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 3, 2001.

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

- 1) Heading of the Part: Standards Applicable to Generators of Hazardous Waste
- 2) Code citation: 35 Ill. Adm. Code 722
- 3) Section Numbers: 722.134
- 4) Date Proposal published in the Illinois Register: March 24, 2000, 24 Ill. Reg. 4714
- 5) Date Adoption published in the Illinois Register: July 7, 2000, 24 Ill. Reg. 3823
- 6) Date Request for Expedited Correction published in the Illinois Register: January 26, 2001, 25 Ill. Reg. 1865
- 7) Adoption effective date: June 20, 2000
- 8) Correction effective date: June 20, 2000
- 9) Reason for Approval of Expedited Correction:

By an opinion and order dated May 18, 2000, the Board adopted numerous amendments to the hazardous waste rules intended to correspond with federal RCRA Subtitle C amendments made during the period July 1, 2000, through December 31, 2000. The Board filed those amendments with the Office of the Secretary of State, and they became effective on June 20, 2000. Among those amendments were amendments to 35 Ill. Adm. Code 722.134.

By a letter dated September 25, 2000, the Joint Committee on Administrative Rules (JCAR) directed the Board's attention to typographical errors in the text of the adopted amendments. As a result, the Board submitted a request for expedited correction of the errors to JCAR on October 18, 2000. Those JCAR-suggested corrections are outlined as follows:

722.134(g)(4)(A)(ii)	Change "except 35" to "except 35" by adding a space
722.134(g)(4)(D)	Change "Hazardous Waste;" to "Hazardous Waste;" by moving the semicolon outside of the closing quotation mark
722.134(i)	Change "270 days, if applicable" to "270 days if applicable" by removing a comma to make it consistent with the same text in subsection (i)(1)
722.134(i)(2)	Change "Board" to "Board" to correct a misspelling of the word

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

In addition to the JCAR-suggested corrections, the Board asked to correct the spelling of the word "requirements" in the Board Note that follows Section 722.132(g)(4)(F)(i), as follows:

722.134(g)(4)(F) Board Note Corrected the spelling of "requirements"

As noted above, a Request for Expedited Correction appeared in the January 26, 2001 issue of the *Illinois Register*. JCAR forwarded a Certification of Correction to Adopted Rulemaking to the Board on February 21, 2001.

All the typographical corrections, those suggested by JCAR and that added by the Board, are non-substantive. Making the corrections will result in no hardship, and the public interest will be served by completing these corrections.

The full text of the corrected rule begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 722
STANDARDS APPLICABLE TO
GENERATORS OF HAZARDOUS WASTE
SUBPART A: GENERAL

Section
722.110 Purpose, Scope and Applicability
722.111 Hazardous Waste Determination
722.112 USEPA Identification Numbers

SUBPART B: THE MANIFEST

Section
722.120 General Requirements
722.121 Acquisition of Manifests
722.122 Number of Copies
722.123 Use of the Manifest

SUBPART C. PRE-TRANSPORT REQUIREMENTS

Section
722.130 Packaging
722.131 Labeling
722.132 Marking
722.133 Placarding
722.134 Accumulation Time

SUBPART D: RECORDKEEPING AND REPORTING

Section
722.140 Recordkeeping
722.141 Annual Reporting
722.142 Exception Reporting
722.143 Additional Reporting
722.144 Special Requirements for Generators of between 100 and 1000 kilograms per month

SUBPART E: EXPORTS OF HAZARDOUS WASTE

Section
722.150 Applicability
722.151 Definitions

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

722.152 General Requirements
 722.153 Notification of Intent to Export
 722.154 Special Manifest Requirements
 722.155 Exception Report
 722.156 Annual Reports
 722.157 Recordkeeping
 722.158 International Agreements

SUBPART F: IMPORTS OF HAZARDOUS WASTE

Section
 722.160 Imports of Hazardous Waste

SUBPART G: FARMERS

Section
 722.170 Farmers

SUBPART H: TRANSFRONTIER SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD

Section
 722.180 Applicability
 722.181 Definitions
 722.182 General Conditions
 722.183 Notification and Consent
 722.184 Tracking Document
 722.185 Contracts
 722.186 Provisions Relating to Recognized Traders
 722.187 Reporting and Recordkeeping
 722.189 OECD Waste Lists

APPENDIX A Hazardous Waste Manifest

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4824, effective May 17, 1982; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 11131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 4412, effective August 14, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17850, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 3874, effective June 20, 2000; expedited correction at 25 Ill. Reg. _____, effective _____.

SUBPART C: PRE-TRANSPORT REQUIREMENTS

Section 722.134 Accumulation Time

a) Except as provided in subsection (d), (e), or (f) of this Section, a generator is exempt from all the requirements in 35 Ill. Adm. Code 725-Subparts G and H, except for 35 Ill. Adm. Code 725-211 and 725-214, and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the following conditions are fulfilled:

1) The waste is placed in or on one of the following:

- A) In containers, and the generator complies with 35 Ill. Adm. Code 725-Subparts T, AA, AB, and CC;
- B) In tanks, and the generator complies with 35 Ill. Adm. Code 725-Subparts J, AA, BB, and CC, except 35 Ill. Adm. Code 725-297(c) and 725-298;
- C) On drip pads, and the generator complies with 35 Ill. Adm. Code 725-Subpart W and maintains the following records at the facility:

- i) A description of the procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days, and
- ii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the pump or collection system and the date and time of removal; or
- D) In containment buildings, and the generator complies with 35 Ill. Adm. Code 725-Subpart DD (has placed its Professional Engineer (PE) certification that the building complies with the design standards specified in 35 Ill. Adm. Code 725.1101 in the facility's operating record prior to the date of initial operation of the unit). The owner or operator shall maintain the following records at the facility:

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

- i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respect to the 90 day limit, and documentation that the procedures are complied with; or
- ii) Documentation that the unit is emptied at least once every 90 days;

BOARD NOTE: The "in addition" hanging subsection that appears in the Federal rules after 40 CFR 262.34(a)(1)(iv)(B) is in the introduction to subsection (a) of this Section.

- 2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
 - 3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and
 - 4) The generator complies with the requirements for treatment, storage, and disposal facility owners or operators in 35 Ill. Adm. Code 725 Subparts C and D and with 35 Ill. Adm. Code 725.116 and 728.107(a)(5).
- b) A generator that accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 35 Ill. Adm. Code 724 and 725 and the permit requirements of 35 Ill. Adm. Code 702, 703 and 705 unless the generator has been granted an extension of the 90-day period. If hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances, the generator may seek an extension of up to 30 days by means of a variance or provisional variance, pursuant to Section 37 of the Environmental Protection Act and 35 Ill. Adm. Code 180 (Agency procedural regulations).
- c) Accumulation near the point of generation.

- 1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 35 Ill. Adm. Code 721.133(e) in containers at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process generating the waste without a permit or interim status and without complying with subsection (a) of this Section, provided the generator does the following:
 - A) Complies with 35 Ill. Adm. Code 725.271, 725.272, and 725.273(a); and
 - B) Marks the generator's containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
- 2) A generator that accumulates either hazardous waste or acutely hazardous waste listed in 35 Ill. Adm. Code 721.133(e) in excess of the amounts listed in subsection (c)(1) of this Section at or near any point of generation must, with respect to that amount of

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

excess waste, comply within three days with subsection (a) of this Section or other applicable provisions of this Chapter. During the three day period the generator must continue to comply with subsection (c)(1) of this Section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

- d) A generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that the following conditions are fulfilled:
 - 1) The quantity of waste accumulated on-site never exceeds 6000 kilograms;
 - 2) The generator complies with the requirements of 35 Ill. Adm. Code 725 Subpart I (except 35 Ill. Adm. Code 725.276 and 725.278);
 - 3) The generator complies with the requirements of 35 Ill. Adm. Code 725.301;
 - 4) The generator complies with the requirements of subsections (a)(2) and (a)(3) of this Section, 35 Ill. Adm. Code 725 Subpart C, and 35 Ill. Adm. Code 728.107(a)(5); and
 - 5) The generator complies with the following requirements:
 - A) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in subsection (d)(5)(D) of this Section. The employee is the emergency coordinator.
 - B) The generator shall post the following information next to the telephone:
 - i) The name and telephone number of the emergency coordinator;
 - ii) Location of fire extinguishers and spill control material and, if present, fire alarm; and
 - iii) The telephone number of the fire department, unless the facility has a direct alarm.

C) The generator shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

D) The emergency coordinator or designee shall respond to any emergencies that arise. The applicable responses are as follows:

- i) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;
- ii) In the event of a spill, contain the flow of hazardous waste to the extent possible and, as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil; and

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

iii) In the event of a fire, explosion, or other release that could threaten human health outside the facility, or when the generator has knowledge that a spill has reached surface water, the generator shall immediately notify the National Response Center (using its 24-hour toll free number 800-424-8802). The report must include the following information: the name, address, and USEPA identification number (Section 722.112 of this Part) of the generator; the date, time, and type of incident (e.g., spill or fire); the quantity and type of hazardous waste involved in the incident; the extent of injuries, if any; and the estimated quantity and disposition of recoverable materials, if any.

e) A generator that generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and that transports the waste or offers the waste for transportation over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status, provided that the generator complies with the requirements of subsection (d) of this Section.

f) A generator that generates greater than 1,000 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and that accumulates hazardous waste in quantities exceeding 6,000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if the generator must transport the waste or offer the waste for transportation over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 35 Ill. Adm. Code 724 and 725 and the permit requirements of 35 Ill. Adm. Code 703, unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period. If hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances, the generator may seek an extension of up to 30 days by means of variance or provisional variance pursuant to Section 37 of the Environmental Protection Act.

g) A generator that generates 1,000 kilograms or greater of hazardous waste per calendar month which also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days, without a permit or without having interim status provided that the generator fulfills the following conditions:

- 1) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants entering F006 or otherwise released to the environment prior to its recycling;
- 2) The F006 waste is legitimately recycled through metals recovery;

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

- 3) No more than 20,000 kilograms of F006 waste is accumulated on-site at any one time; and
- 4) The F006 waste is managed in accordance with the following conditions:

A) The F006 waste is placed in one of the following containing devices:

- i) In containers and the generator complies with the applicable requirements of 35 Ill. Adm. Code 725.Subparts I, AA, BB, and CC;
- ii) In tanks and the generator complies with the applicable requirements of 35 Ill. Adm. Code 725.Subparts J, AA, BB, and CC, except 35 except 35 Ill. Adm. Code 725.297(c) and 725.300; or
- iii) In containment buildings, and the generator complies with 35 Ill. Adm. Code 725.Subpart DD and has placed its professional engineer verification that the building complies with the design standards specified in 35 Ill. Adm. Code 725.1101 in the facility's operating record prior to operation of the unit. The owner or operator shall maintain the records listed in subsection (g)(4)(F) of this Section at the facility.

B) In addition, such a generator is exempt from all the requirements in 35 Ill. Adm. Code 725.Subparts G and H, except for 35 Ill. Adm. Code 725.211 and 725.214.

C) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

D) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste;" and

E) The generator complies with the requirements for owners or operators in 35 Ill. Adm. Code 725.Subparts C and D, with 35 Ill. Adm. Code 725.116, and with 35 Ill. Adm. Code 728.107(a)(5).

F) Required records for a containment building:

- i) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or
- ii) Documentation that the unit is emptied at least once every 180 days.

BOARD NOTE: The Board has codified 40 CFR 262.34(g)(4)(A)(iii)(2) and (g)(4)(A)(iii)(2) as subsections (g)(4)(F)(i) and (g)(4)(F)(ii) because Illinois Administrative Code codification requirements require do not allow the use of a fifth level of subsection indents.

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTIONS

- h) A generator that generates 1,000 kilograms or greater of hazardous waste per calendar month which also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006 and which must transport this waste or offer this waste for transportation over a distance of 200 miles or more for off-site metals recovery may accumulate F006 waste on-site for more than 90 days, but not more than 270 days, without a permit or without having interim status if the generator complies with the requirements of paragraphs (g)(1) through (g)(4) of this Section.
- i) A generator accumulating F006 in accordance with paragraphs (g) and (h) of this Section that accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste or offer this waste for transportation over a distance of 200 miles or more), or which accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility, and such a generator is subject to the requirements of 35 Ill. Adm. Code 724 and 725 and the permit requirements of 35 Ill. Adm. Code 702 and 703, unless the generator has been granted an extension to the 180-day (or 270-day, if applicable) period or an exception to the 20,000 kilogram accumulation limit.
- 1) On a case-by-case basis, the Board will grant a provisional variance that allows an extension of the accumulation time up to an additional 30 days pursuant to Section 37 of the Act on notification that the Agency has found that the F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances.
- 2) On a case-by-case basis, the Board Board will grant a provisional variance that allows an exception to the 20,000 kilogram accumulation limit on notification that the Agency has found that more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances.
- 3) A generator shall follow the procedure of 35 Ill. Adm. Code 180 (Agency procedural rules) when seeking a provisional variance under subsection (i)(1) or (i)(2) of this Section.

(Source: Expedited correction at 25 Ill. Reg. 5105, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code citation: 35 Ill. Adm. Code 724
- 3) Section Numbers: 724.440
- 4) Date Proposal published in the Illinois Register: March 24, 2000, 24 Ill. Reg. 4724
- 5) Date Adoption published in the Illinois Register: July 7, 2000, 24 Ill. Reg. 9833
- 6) Date Request for Expedited Correction published in the Illinois Register: January 26, 2001, 25 Ill. Reg. 1875
- 7) Adoption effective date: June 20, 2000
- 8) Correction effective date: June 20, 2000
- 9) Reason for Approval of Expedited Correction:

By an opinion and order dated May 18, 2000, the Board adopted numerous amendments to the hazardous waste rules intended to correspond with federal RCRA Subtitle C amendments made during the period July 1, 2000 through December 31, 2000. The Board filed those amendments with the Office of the Secretary of State, and they became effective on June 20, 2000. Among those amendments were amendments to Section 724.440.

By a letter dated September 25, 2000, the Joint Committee on Administrative Rules (JCAR) directed the Board's attention to typographical errors in the text of the adopted amendments. As a result, the Board submitted a request for expedited correction of the errors to JCAR on October 18, 2000.

It appears that two kinds of errors occurred in the course of making amendments to the text of 35 Ill. Adm. Code 724.440 in the docket titled RCRA Subtitle C Update, USEPA Regulations (July 1 1999 through December 31, 1999) (May 18, 2000), R00-13:

- 1) The base text used inadvertently omitted amendments made in a prior rulemaking, RCRA Update, USEPA Regulations (January 1, 1991, through June 30, 1991) (April 9, 1992), R91-13, filed with the Secretary of State and effective June 9, 1992, and published in the *Illinois Register* on June 19, 1992, at 16 Ill. Reg. 9833. These omissions were made without the appropriate use of underlining or overstrike markings to indicate the changes.

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

- 2) The base text used inadvertently made changes and corrections in the style of internal cross-references without the appropriate use of underlining or overstrike markings to indicate the changes.

The corrections are outlined as follows:

724.440(a)

Changed "facilities that incinerate hazardous waste" to "hazardous waste incinerators (as defined in 35 Ill. Adm. Code 720.110)".

Changed "hazardous waste" to reflect prior amendments.

724.440(a)(1)

Deleted subsection (a)(1)(B), (C), or (D), which was inadvertently modified without using underlining and overstrike markings.

724.440(a)(2)

Deleted subsection (a)(2) to reflect prior amendments that were inadvertently modified without using underlining and overstrike markings.

724.440(c)(1)(A)

Replaced "35 Ill. Adm. Code 721-Subpart D" with "35 Ill. Adm. Code 721, Subpart D" to reflect the text on file that was inadvertently modified without using underlining and overstrike markings.

724.440(c)(1)(B)

Replaced "35 Ill. Adm. Code 721-Subpart D" with "35 Ill. Adm. Code 721, Subpart D" to reflect the text on file that was inadvertently modified without using underlining and overstrike markings, then changed "35 Ill. Adm. Code 721, Subpart D" to "Subpart D of 35 Ill. Adm. Code 721" to reflect the format currently favored by JCAR.

724.440(c)(1)(C)

Replaced "35 Ill. Adm. Code 721-Subpart C" with "35 Ill. Adm. Code 721, Subpart C" to reflect the text on file that was inadvertently modified without using underlining and overstrike markings, then changed "35 Ill. Adm. Code 721, Subpart C"

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

"Subpart C of 35 Ill. Adm. Code 721" to reflect the format currently favored by JCAR.

724.440(c)(2)

Replaced "35 Ill. Adm. Code 721-Subpart H" with "35 Ill. Adm. Code 721, Subpart H" to reflect the text on file that was inadvertently modified without using underlining and overstrike markings, then changed "35 Ill. Adm. Code 721, Subpart H" to "Subpart H of 35 Ill. Adm. Code 721" to reflect the format currently favored by JCAR.

724.440(d)

Replaced "(b)(1)(A), (B), (C), or (D)" with "(b)(1)(A), (B), (C), or (D), above" to reflect the text on file that was inadvertently modified without using underlining and overstrike markings, then changed "(b)(1)(A), (B), (C), or (D), above" to "(b)(1)(A), (b)(1)(B), (b)(1)(C), or (b)(1)(D) of this Section" to reflect the format currently favored by JCAR.

724.440(d)

Replaced "35 Ill. Adm. Code 721-Subpart H" with "35 Ill. Adm. Code 721, Subpart H" to reflect the text on file that was inadvertently modified without using underlining and overstrike markings, then changed "35 Ill. Adm. Code 721, Subpart H" to "Subpart H of 35 Ill. Adm. Code 721" to reflect the format currently favored by JCAR.

As noted above, a Request for Expedited Corrections appeared in the January 26, 2001 issue of the Illinois Register. JCAR forwarded a Certification of Correction to Adopted Rulemaking to the Board on February 21, 2001.

All the typographical corrections, those suggested by JCAR and that added by the Board, are non-substantive. Making the corrections will result in no hardship, and the public interest will be served by completing these corrections.

The full text of the corrected rule begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 724

STANDARDS FOR OWNERS AND OPERATORS OF
HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Section	
724.101	Purpose, Scope, and Applicability
724.103	Relationship to Interim Status Standards

SUBPART B: GENERAL FACILITY STANDARDS

Section	
724.110	Applicability
724.111	Identification Number
724.112	Required Notices
724.113	General Waste Analyses
724.114	Security
724.115	General Inspection Requirements
724.116	Personnel Training
724.117	General Requirements for Ignitable, Reactive or Incompatible Wastes
724.118	Location Standards
724.119	Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

Section	
724.130	Applicability
724.131	Design and Operation of Facility
724.132	Required Equipment
724.133	Testing and Maintenance of Equipment
724.134	Access to Communications or Alarm System
724.135	Required Aisle Space
724.137	Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section	
724.150	Applicability
724.152	Purpose and Implementation of Contingency Plan
724.153	Content of Contingency Plan
724.153	Copies of Contingency Plan
724.154	Amendment of Contingency Plan

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

724.155	Emergency Coordinator
724.156	Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section	
724.170	Applicability
724.171	Use of Manifest System
724.172	Manifest Discrepancies
724.173	Operating Record
724.174	Availability, Retention and Disposition of Records
724.175	Annual Report
724.176	Unmanifested Waste Report
724.177	Additional Reports

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section	
724.190	Applicability
724.191	Required Programs
724.192	Groundwater Protection Standard
724.193	Hazardous Constituents
724.194	Concentration Limits
724.195	Point of Compliance
724.196	Compliance Period
724.197	General Groundwater Monitoring Requirements
724.198	Detection Monitoring Program
724.199	Compliance Monitoring Program
724.200	Corrective Action Program
724.201	Corrective Action for Solid Waste Management Units

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section	
724.210	Applicability
724.211	Closure Performance Standard
724.212	Closure Plan; Amendment of Plan
724.213	Closure; Time Allowed For Closure
724.214	Disposal or Decontamination of Equipment, Structures and Soils
724.215	Certification of Closure
724.216	Survey Plat
724.217	Post-closure Care and Use of Property
724.218	Post-Closure Care Plan; Amendment of Plan
724.219	Post-closure Notices
724.220	Certification of Completion of Post-closure Care

SUBPART H: FINANCIAL REQUIREMENTS

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

Section
 724.240 Applicability
 724.241 Definitions of Terms As Used In This Subpart
 724.242 Cost Estimate for Closure
 724.243 Financial Assurance for Closure
 724.244 Cost Estimate for Post-closure Care
 724.245 Financial Assurance for Post-closure Care
 724.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-closure Care
 724.247 Liability Requirements
 724.248 Incapacity of Owners or Operators, Guarantors or Financial Institutions
 724.251 Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section
 724.270 Applicability
 724.271 Condition of Containers
 724.272 Compatibility of Waste with Container
 724.273 Management of Containers
 724.274 Inspections
 724.275 Containment
 724.276 Special Requirements for Ignitable or Reactive Waste
 724.277 Special Requirements for Incompatible Wastes
 724.278 Closure
 724.279 Air Emission Standards

SUBPART J: TANK SYSTEMS

Section
 724.290 Applicability
 724.291 Assessment of Existing Tank System's Integrity
 724.292 Design and Installation of New Tank Systems or Components
 724.293 Containment and Detection of Releases
 724.294 General Operating Requirements
 724.295 Inspections
 724.296 Response to Leaks or Spills and Disposition of Leaking or Unit-for-use Tank Systems
 724.297 Closure and Post-Closure Care
 724.298 Special Requirements for Ignitable or Reactive Waste
 724.299 Special Requirements for Incompatible Wastes
 724.300 Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section
 724.320 Applicability

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

724.321 Design and Operating Requirements
 724.322 Action Leakage Rate
 724.323 Response Actions
 724.324 Monitoring and Inspection
 724.327 Emergency Repairs; Contingency Plans
 724.328 Closure and Post-closure Care
 724.329 Special Requirements for Ignitable or Reactive Waste
 724.330 Special Requirements for Incompatible Wastes
 724.331 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026 and F027
 724.332 Air Emission Standards

SUBPART L: WASTE PILES

Section
 724.350 Applicability
 724.351 Design and Operating Requirements
 724.352 Action Leakage Rate
 724.353 Response Action Plan
 724.354 Monitoring and Inspection
 724.356 Special Requirements for Ignitable or Reactive Waste
 724.357 Special Requirements for Incompatible Wastes
 724.358 Closure and Post-closure Care
 724.359 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026 and F027

SUBPART M: LAND TREATMENT

Section
 724.370 Applicability
 724.371 Treatment Program
 724.372 Treatment Demonstration
 724.373 Design and Operating Requirements
 724.376 Food-chain Crops
 724.378 Unsaturated Zone Monitoring
 724.379 Recordkeeping
 724.380 Closure and Post-closure Care
 724.381 Special Requirements for Ignitable or Reactive Waste
 724.382 Special Requirements for Incompatible Wastes
 724.383 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026 and F027

SUBPART N: LANDFILLS

Section
 724.400 Applicability
 724.401 Design and Operating Requirements
 724.402 Action Leakage Rate

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

724.403 Monitoring and Inspection
 724.404 Response Actions
 724.409 Surveying and Recordkeeping
 724.410 Closure and Post-Closure Care
 724.412 Special Requirements for Ignitable or Reactive Waste
 724.413 Special Requirements for Incompatible Wastes
 724.414 Special Requirements for Bulk and Containerized Liquids
 724.415 Special Requirements for Containers
 724.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)
 724.417 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026 and F027

SUBPART O: INCINERATORS

Section
 724.440 Applicability
 724.441 Waste Analysis
 724.442 Principal Organic Hazardous Constituents (POHCs)
 724.443 Performance Standards
 724.444 Hazardous Waste Incinerator Permits
 724.445 Operating Requirements
 724.447 Monitoring and Inspections
 724.451 Closure

SUBPART S: CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

Section
 724.652 Corrective Action Management Units
 724.653 Temporary Units
 724.654 Staging Piles

SUBPART W: DRIP PADS

Section
 724.670 Applicability
 724.671 Assessment of existing drip pad integrity
 724.672 Design and installation of new drip pads
 724.673 Design and operating requirements
 724.674 Inspections
 724.675 Closure

SUBPART X: MISCELLANEOUS UNITS

Section
 724.700 Environmental Performance Standards
 724.701 Monitoring, Analysis, Inspection, Response, Reporting and Corrective

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

Section
 724.703 Action
 Post-Closure Care

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section
 724.930 Applicability
 724.931 Definitions
 724.932 Standards: Process Vents
 724.933 Standards: Closed-Vent Systems and Control Devices
 724.934 Test Methods and Procedures
 724.935 Recordkeeping Requirements
 724.936 Reporting Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section
 724.940 Applicability
 724.941 Definitions
 724.942 Standards: Pumps in Light Liquid Service
 724.943 Standards: Compressors
 724.944 Standards: Pressure Relief Devices in Gas/Vapor Service
 724.945 Standards: Sampling Connecting Systems
 724.946 Standards: Open-ended Valves or Lines
 724.947 Standards: Valves in Gas/Vapor or Light Liquid Service
 724.958 Standards: Pumps, Valves, Pressure Relief Devices and Other Connectors
 724.959 Standards: Delay of Repair
 724.960 Standards: Closed-vent Systems and Control Devices
 724.961 Alternative Percentage Standard for Valves
 724.962 Skip Period Alternative for Valves
 724.963 Test Methods and Procedures
 724.964 Recordkeeping Requirements
 724.965 Reporting Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

Section
 724.980 Applicability
 724.981 Definitions
 724.982 Standards: General
 724.983 Waste Determination Procedures
 724.984 Standards: Tanks
 724.985 Standards: Surface Impoundments
 724.986 Standards: Containers
 724.987 Standards: Closed-vent Systems and Control Devices
 724.988 Inspection and Monitoring Requirements
 724.989 Recordkeeping Requirements

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

724.990 Reporting Requirements
724.991 Alternative Control Requirements for Tanks

SUPPORT DD: CONTAINMENT BUILDINGS

Section

724.1100 Applicability
724.1101 Design and operating standards
724.1102 Closure and Post-closure Care

APPENDIX A Recordkeeping Instructions
APPENDIX B EPA Report Form and Instructions (Repealed)
APPENDIX D Cochran's Approximation to the Behrens-Fisher Student's T-Test
APPENDIX E Examples of Potentially Incompatible Waste
APPENDIX I Groundwater Monitoring List

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14019, effective October 12, 1983; amended in R84-9, at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13131, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 26, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-16 at 18 Ill. Reg. 6978, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R95-6 at 19 Ill. Reg. 9954, effective November 23, 1994; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 24, 2000; expedited correction at 25 Ill. Reg. 5115, effective

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUPPORT O: INCINERATORS

Section 724.440 Applicability

a) The regulations in this Subpart apply to owners and operators of facilities that incinerate hazardous waste incinerators (as defined in 35 Ill. Adm. Code 720.110), except as Section 724.101 provides otherwise. The following facility owners and operators are excluded from this Subpart:

- i) Owners and operators of hazardous waste incinerators, as defined in 35 Ill. Adm. Code 720.110(a);
- 2) Owners and operators of hazardous waste incinerators, as defined in 35 Ill. Adm. Code 720.110(b);
- 3) Owners and operators of hazardous waste incinerators, as defined in 35 Ill. Adm. Code 720.110(c);

Integration of the MACT standards.

- 1) Except as provided by subsection (b)(2) of this Section, the standards of this Part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR 63, Subpart EEE, incorporated by reference in 35 Ill. Adm. Code 720.111, by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, under 40 CFR 63.1207(j) and 63.1210(d), documenting compliance requirements of 40 CFR 63, Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

- 2) The MACT standards of 40 CFR 63, Subpart EEE do not replace the closure requirements of Section 724.451 or the applicable requirements of Subparts A through H, BB, and CC of this Part.

BOARD NOTE: Sections 9.1 and 39.5 of the Environmental Protection Act [415 ILCS 5/9.1 and 39.5] make the federal MACT standards directly applicable to entities in Illinois and authorize the Agency to issue permits based on the federal standards. In adopting this subsection (b), USEPA stated as follows:

Under [the approach adopted by USEPA as a] final rule, MACT air emissions and related operating requirements are to be included in title v permits; RCRA permits will continue to be required for all other aspects of the combustion unit and the facility that are governed by RCRA (e.g., corrective action, general facility standards, risk-based emissions limits and operating

POLLUTION CONTROL BOARD

NOTICE OF EXPEDITED CORRECTION

requirements, as appropriate, and other hazardous waste management units).

64 Fed. Reg. 52828, 52975 (Sept. 30, 1999).

- c) After consideration of the waste analysis included with Part B of the permit application, the Agency, in establishing the permit conditions, must exempt the applicant from all requirements of this Subpart except Section 724.441 (Waste analysis) and Section 724.451 (Closure):

- 1) If the Agency finds that the waste to be burned is:
 - A) Listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.7-Subpart-B solely because it is ignitable (Hazard Code H), corrosive (Hazard Code C), or both; or
 - B) Listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.7-Subpart-B solely because it is reactive (Hazard Code R) for characteristics other than those listed in Section 721.123(a)(4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone;
 - C) A hazardous waste solely because it possesses the characteristic of ignitability, as determined by the test for characteristics of hazardous wastes under Subpart C of 35 Ill. Adm. Code 721.7-Subpart-C; or
 - D) A hazardous waste solely because it possesses any of the reactivity characteristics described by 35 Ill. Adm. Code 721.123(a)(1), (2), (3), (6), (7) and (8), and will not be burned when other hazardous wastes are present in the combustion zone; and
- 2) If the waste analysis shows that the waste contains none of the hazardous constituents listed in Subpart H of 35 Ill. Adm. Code 721.7-Subpart-H that would reasonably be expected to be in the waste.
- d) If the waste to be burned is one that is described by subsections (b)(1)(A), (b)(1)(B), (b)(1)(C) or (b)(1)(D) of this Section--~~above~~ and contains insignificant concentrations of the hazardous constituents listed in Subpart H of 35 Ill. Adm. Code 721.7-Subpart-H then the Agency may, in establishing permit conditions, exempt the applicant from all requirements of this Subpart, except Section 724.441 (Waste analysis) and Section 724.451 (Closure), after consideration of the waste analysis included with Part B of the permit application, unless the Agency finds that the waste will pose a threat to human health or the environment when burned in an incinerator.
- e) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of 35 Ill. Adm. Code 703.222 through 703.225 (Short term and incinerator permits).

(Source: Expedited correction at 25 Ill. Reg. 5115 effective

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF FAILURE TO REMEDY

DEPARTMENT OF HUMAN SERVICES

1) Heading of the Part: Crisis Assistance

2) Code Citation: 89 Ill Adm Code 116

3) Section Numbers: 116.50 Action: Objection

4) Notice of Proposal published in Illinois Register: 24 Ill Reg 11460 - 8/4/00

5) Date JCAR issued Statement of Objection: 12/12/00

6) Summary of Action taken by the Agency: DHS proposed a rulemaking that provides Crisis Assistance (CA) payments to TANF families in instances of homelessness, or threatened homelessness due to natural disasters, court orders to vacate premises, or domestic abuse or when food needs cannot be met through the Food Stamp Program.

7) JCAR Action: The above cited rulemaking was considered by the Joint Committee at its December 12, 2000 meeting. At that time, the Committee voted to issue an Objection because the rulemaking limited Crisis Assistance to TANF eligible clients only in contravention of Section 4-12 of the Public Aid Code [305 ILCS 5/4-12]. In response to the Objection, DHS disagreed with JCAR's interpretation of Section 4-12 and defended its position, retaining the policy currently utilized. At its meeting on March 20, 2001, the Committee voted to issue a Notice of Failure to Remedy as nothing in the Department's response changed the Committee's view that limiting CA to TANF eligible clients was not specifically authorized by statute.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of March 20, 2001 through March 26, 2001 and have been scheduled for review by the Committee at its April 17, 2001 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
5/3/01	Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill Adm Code 1040)	2/2/01 25 Ill Reg 1996	4/17/01
5/4/01	Department of Revenue, Use Tax (86 Ill Adm Code 150)	2/2/01 25 Ill Reg 1988	4/17/01
5/4/01	Department of Revenue, Use Tax (86 Ill Adm Code 150)	1/26/01 25 Ill Reg 1171	4/17/01
5/4/01	Department of Revenue, Retailers' Occupation Tax (86 Ill Adm Code 130)	1/26/01 25 Ill Reg 1169	4/17/01
5/4/01	Department of Natural Resources, White-Tailed Deer Hunting by Use of Firearms (17 Ill Adm Code 650)	1/26/01 25 Ill Reg 1060	4/17/01
5/4/01	Department of Natural Resources, White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill Adm Code 660)	1/26/01 25 Ill Reg 1079	4/17/01

PROCLAMATIONS

2001-117

GUBERNATORIAL PROCLAMATION

As a result of ice jams, severe flooding occurred along the Rock River in the unincorporated areas of Henry and Rock Island counties and the townships of Colona and Hanna and the community of Cleveland in Henry county and the townships of Hampton and Zuma and the communities of Osborn, Barstow and Hillside in Rock Island county, resulting in damage to homes, levees, roads and other property.

In the interest of responding to the threat imposed to public health and safety as a result of the flooding, I hereby declare that a disaster exists within the State of Illinois and specifically identify Henry and Rock Island counties and the communities of Cleveland, Osborn and Barstow as a disaster area, pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7.

This gubernatorial declaration of disaster will aid the Illinois Emergency Management Agency in coordinating the state effort to assist local governments in disaster response and recovery operations. This declaration will provide for the assessment of damages which may render an opportunity to request supplemental Federal assistance.

Issued by the Governor March 1, 2001.

Filed by the Secretary of State March 1, 2001.

2001 118

BUILDING HOMES: REBUILDING LIVES DAY

WHEREAS, Lutheran Social Services of Illinois (LSSI), a faith based provider of community services throughout the State of Illinois, is a leader in the promotion of restorative justice principles that promote offender competency and provide an opportunity for prisoners to give back to the community; and

WHEREAS, LSSI created Building Homes: Rebuilding Lives in 1997, which serves as a partnership between the Illinois Department of Corrections, the faith-based organizations Habitat for Humanity, Lutheran Social Services of Illinois and other not-for-profit organizations; and

WHEREAS, Building Homes: Rebuilding Lives provides a way for prisoners to learn real life construction skills, contribute to Illinois communities, build homes for the working poor, meet Habitat for Humanity families and break down barriers of prejudice; and

WHEREAS, Building Homes: Rebuilding Lives has helped prisoners build 133 homes to date for families in Illinois and beyond; and

WHEREAS, Building Homes: Rebuilding Lives exemplifies the good that can be accomplished when faith-based organizations partner with the state; and

WHEREAS, Building Homes: Rebuilding Lives is celebrating March 13, 2001, having been recognized nationally as the recipient of the Mutual of America Community Partnership Award for the year 2000;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 13, 2001, as BUILDING HOMES: REBUILDING LIVES DAY in Illinois.

Issued by the Governor March 1, 2001.

Filed by the Secretary of State March 1, 2001.

2001-119

DR. MOHAMMAD MOSSADEGH DAY

WHEREAS, Mohammad Mossadeqh, Mahatma Gandhi, and Nelson Mandela are national heroes for Iran, India, and South Africa, as well as international symbols of perseverance and civility and advocates of justice and democracy; and

WHEREAS, George Washington and Thomas Jefferson in the United States and Mahatma Gandhi in India led the fight for Independence from Britain, and Mohammad Mossadeqh led the Iranian movement against the British colonialism in achieving the nationalization of the Iranian oil; and

WHEREAS, for the occasion of the 50th anniversary of democratic election of Premier Dr. Mohammad Mossadeqh, Northeastern Illinois University in Chicago is hosting a conference titled "Mossadeqh and the future of Iran"; and

WHEREAS, numerous scholars and experts of Iran, Mossadeqh, and Oil and British Colonial politics will present their views to the conference from four different continents and various American universities; and

WHEREAS, many Iranian-American scholars and scientists contribute to our educational and research institutions as faculty members, department chairs, and deans at Northeastern Illinois University;

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 2, 2001, as DR. MOHAMMAD MOSSADEGH DAY in Illinois.

Issued by the Governor March 1, 2001.

Filed by the Secretary of State March 1, 2001.

2001-120

GARY SEIBERT DAY

WHEREAS, the National Conference for Community and Justice (NCCJ) is a non-profit educational organization dedicated to preserving and strengthening the freedom to be different by creating opportunities for people to realize the advantages and importance of accepting diversity; and

WHEREAS, Gary Seibert is Vice President of Midwest Hilton Hotels Corporation and General Manager of the Palmer House Hilton; and

WHEREAS, Gary Seibert is being recognized for his outstanding efforts in the area of diversity in the hospitality industry and as a highly regarded leader demonstrating undying diligence to foster tourism and economic development in the City of Chicago; and

WHEREAS, the National Conference for Community and Justice is honoring Gary Seibert with the 2001 Chicagoan of the Year Award; and

WHEREAS, the award will be presented at a gala dinner on Wednesday, March 21, 2001, in the Grand and State Ballroom of the Palmer House Hilton; and

WHEREAS, serving as co-chairpersons of the NCCJ 2001 Chicagoan of the Year Award dinner are City of Chicago Department of Cultural Affairs Commissioner Louis Weisberg and Chicago Convention and Tourism Bureau President and Chief Executive Officer Jim Reilly; and

WHEREAS, proceeds from the dinner will be used for the important year-round educational programs of NCCJ, including NCCJ's high school program, "Building Bridges to Understanding";

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 21, 2001, as GARY SEIBERT DAY in Illinois.

Issued by the Governor March 1, 2001.

Filed by the Secretary of State March 1, 2001.

2001-121

RAMAYANA DAY

WHEREAS, the Ramayana is the lyrical story of Rama, who embodies the goodness of man. It is also the story of love and devotion of a wife towards her husband; and

WHEREAS, this is the 2nd historical event for Chicago when communities from Thailand, Indonesia, and India will jointly present a major cultural event; and

WHEREAS, the objective of the performance is to feature the common cultural thread among these three Southeastern Asian communities promoting good will and a better understanding of each other's cultural traditions; and

WHEREAS, approximately 95 Chicagoand artists from these three international communities presented episodes from Ramayana in 1999, celebrating their common heritage; and

WHEREAS, Thailand, Indonesia, and India will present a joint international dance drama program featuring the ancient epic, Ramayana, Saturday, March 31, 2001, at the North Shore Center for the Performing Arts in Skokie;

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 31, 2001, as RAMAYANA DAY in Illinois.

Issued by the Governor March 1, 2001.

Filed by the Secretary of State March 1, 2001.

2001-122

CARL N. DOERR DAYS

WHEREAS, Carl N. Doerr became the Village of Lisle's first Village Manager on October 8, 1973; and

WHEREAS, Doerr is the longest-tenured Village Manager in DuPage County; and

WHEREAS, prior to his tenure as Village Manager, Doerr served as a trustee of the Village of Lisle from 1967 until 1973; and

WHEREAS, during his exemplary career of service, the population of the Village of Lisle grew from approximately 8,428 in 1974 to more than 20,000 today; and

WHEREAS, the Village staff grew from 15 employees to 110, and his vision and wisdom successfully helped steer the Village during the mid-80s "construction boom" along the East/West Corporate Corridor and the many residential areas of the Village; and

WHEREAS, under Doerr's leadership and guidance, the diverse and well-planned development of the Village now includes industrial parks and a commercial research corridor, a wide range of residential properties and a water system transitioned into Lake Michigan water; and

WHEREAS, one of Doerr's key responsibilities has been that of Village Municipal Budget Officer, and he has achieved a noteworthy record of financial security and virtually debt-free stability; and

WHEREAS, Doerr's patriotic embrace of the values of responsibility, leadership, trust and honor are exemplified in his great sense of pride, his strong work ethic, and his dedication to serving the community; and

WHEREAS, Doerr, a lifelong resident of Lisle and pillar of local government for more than three decades, will now embark on a well-earned retirement from his post of Village Manager; and

WHEREAS, his lifetime of achievement serves as an inspiration to all Illinois citizens;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 19-23, 2001, as CARL N. DOERFELS DAYS in Illinois.
 Issued by the Governor March 5, 2001.
 Filed by the Secretary of State March 8, 2001.

2001-123

WILLIAM GRANT STRATTON

WHEREAS, William Grant Stratton was born in Lake County, Illinois, 87 years ago; and
 WHEREAS, William Grant Stratton served the State of Illinois honorably and effectively as a member of the United States House of Representatives for two terms in the 1940s; and
 WHEREAS, William Grant Stratton was elected Illinois State Treasurer in 1943 and again in 1950, serving as the state's chief financial officer; and
 WHEREAS, William Grant Stratton was elected governor of the State of Illinois in 1952 and again in 1956; and
 WHEREAS, William Grant Stratton did much during his gubernatorial administration to advance the state's highways, expand Illinois' system of public universities and upgrade state facilities used annually by thousands of taxpayers; and
 WHEREAS, William Grant Stratton passed from this life on Friday, March 2, 2001, and will be buried on March 6, 2001; and
 WHEREAS, the life and service of William Grant Stratton deserves the homage of all Illinoisans;
 THEREFORE, I, George H. Ryan, Governor of the State of Illinois, order that all national and state flags at all state offices, landmarks and facilities be flown at half-staff out of respect for the late William Grant Stratton on March 6, 2001, from sun-up to sun-down.
 Issued by the Governor March 5, 2001.
 Filed by the Secretary of State March 8, 2001.

2001-124

CHICAGO BUSINESS OPPORTUNITY DAYS

WHEREAS, the 34th annual Chicago Business Opportunity Fair, which is of special interest to Chicago-based businesses, will be held April 11-12, 2001; and
 WHEREAS, the fair will provide minority suppliers and purchasing personnel from major buying organizations the opportunity to meet and exchange information about mutual buying and selling needs; and
 WHEREAS, Pamela B. Strobel, Vice-Chairman of COMED, will serve as Chairperson of the fair's Sponsors Committee; and
 WHEREAS, the 34th Annual Chicago Business Opportunity Fair assists in advancing the year-round efforts of the Chicago Minority Business Development Council, Inc., an organization devoted to stimulating minority purchasing in Chicago and the sponsor of the fair; and
 WHEREAS, the Minority Business Committee of the Chicago Minority Business Development Council will hold its 23rd Annual Awards Program on April 12, 2001, in honor of public and private sector representatives for their contributions to minority suppliers' growth and development;
 THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

April 11-12, 2001, as CHICAGO BUSINESS OPPORTUNITY DAYS in Illinois.
 Issued by the Governor March 6, 2001.
 Filed by the Secretary of State March 8, 2001.

2001-125

NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS DAY

WHEREAS, the Chicago Area Chapter of the National Association of Women Business Owners (NAWBO), is one of the largest of the more than 90 chapters throughout the United States; and
 WHEREAS, NAWBO serves as a voice for the 9.1 million women business owners who employ 27.5 million people and do more than \$3.6 trillion in business each year; and
 WHEREAS, NAWBO is an educational and business opportunity resource, and through participation in NAWBO, women business owners have the ability to network and mentor others; and
 WHEREAS, NAWBO members provide valuable research data showing elected officials the economic impact of women; and
 WHEREAS, on May 12, 2001, the Chicago Area Chapter of NAWBO will hold its 23rd Annual Gala to honor and celebrate the achievements of women in business and present the "Woman Business Owner of the Year," "Member of the Year," and "Corporate Woman of Achievement" awards;
 THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 12, 2001, as NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS DAY in Illinois.
 Issued by the Governor March 6, 2001.
 Filed by the Secretary of State March 8, 2001.

2001-126

NEW MEMBERS TRAINING AND DEVELOPMENT B.R.I.D.G.E. DAY

WHEREAS, the Salem Baptist Church of Chicago was organized January 13, 1985, at 8201 South Jeffery Boulevard and relocated to 11800 South Indiana Avenue on July 1, 1990; and
 WHEREAS, the Salem Baptist Church of Chicago sponsors a course within the membership development department for new members to strengthen themselves in their spiritual faith; and
 WHEREAS, more than 350 students in this graduation class have completed the 27-week New Members Training and Development B.R.I.D.G.E. Program; and
 WHEREAS, Janette D. Haskin, New Member Department Superintendent, has developed and supervised the New Members Program for the past nine years; and
 WHEREAS, Karla L. Addison, New Members B.R.I.D.G.E./S.W.A.A.T. Team Administrator, has developed and nurtured the New Members Training and Development Care, as well as the Attendance Process for the Salem New Members; and
 WHEREAS, the Reverend James T. Weeks, Pastor, should be commended for his vision and leadership;
 THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 30, 2001, as NEW MEMBERS TRAINING AND DEVELOPMENT B.R.I.D.G.E. DAY in Illinois.
 Issued by the Governor March 6, 2001.
 Filed by the Secretary of State March 8, 2001.

2001-127 NURSES DAY

WHEREAS, the Chicago area is recognized as a preeminent medical resource, and its commitment to the community is evident in its health care organizations; and

WHEREAS, nursing is a vital component in the provision of modern health care; and

WHEREAS, nursing professionals specializing in emergency care, obstetrics, oncology, intensive care, surgery, home health, ambulatory care, physical rehabilitation, and other areas involved in providing medical services are an integral part of the health care team; and

WHEREAS, these individuals' contributions enhance the metropolitan Chicago area's reputation for health care excellence; and

WHEREAS, the more than 130 hospitals and health care organizations that are members of the Metropolitan Chicago Healthcare Council salute nurses and the important role they play in maintaining the Chicago area as a healthy and productive community;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 4, 2001, as NURSES DAY in Illinois.

Issued by the Governor March 6, 2001.

Filed by the Secretary of State March 8, 2001.

2001-128

STUDENT TECHNOLOGY DAY

WHEREAS, more than 3,500 Illinois students of all ages have benefited from participating in the TECH 2000/AT&T Students for the Information Age school technology demonstrations; and

WHEREAS, the TECH 2000/AT&T program is celebrating its 10th anniversary at the State Capitol Building in Springfield on March 20, 2001, at which students and teachers from nearly 140 schools throughout Illinois will demonstrate to state legislators and other visitors the vast number of ways that students are using technology to learn; and

WHEREAS, the TECH 2000/AT&T program is a statewide initiative, supported by a broad range of education and business organizations to increase awareness about classroom technology and the role it plays in preparing students for the workplace of the future; and

WHEREAS, the demonstrations at TECH 2000/AT&T have evolved over the past 10 years from students performing basic drills in reading and math to highly sophisticated, multimedia presentations that make use of all that the Internet and advances in technology have to offer; and

WHEREAS, despite these successes, there is still a need to provide programs that enable teachers to stay ahead of the learning curve, as well as empower students to learn new ways to solve problems through technology;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 19, 2001, as STUDENT TECHNOLOGY DAY in Illinois.

Issued by the Governor March 6, 2001.

Filed by the Secretary of State March 8, 2001.

2001-129

TAXPAYERS' FEDERATION OF ILLINOIS DAY

WHEREAS, the Taxpayers' Federation of Illinois (TFI) will celebrate its 60th Anniversary on March 16, 2001; and

WHEREAS, the Federation is a statewide, nonpartisan, nonprofit organization that promotes sound tax policy; and

WHEREAS, TFI was established in 1940 by a group of taxpayers who perceived the need for a statewide association which protected the public's interests for efficiency and economy in state and local government expenditures; and

WHEREAS, Thomas E. Donnelly of Chicago was a key organizer and served as the group's first chairman; and as TFI has evolved through the years, its members have grown to include a broad range of corporations, small businesses, associations, state and local policymakers and individuals; and

WHEREAS, the Federation's presence within the State Capitol has helped to educate innumerable taxpayers through six decades on an extensive list of tax issues, including recent studies on legislative funding for corrections, highways, school performance and tax increment financing; and

WHEREAS, the organization's work and lobbying on behalf of state taxpayers has been directed by such renowned leaders on tax policy as Maurice W. Scott, Douglas L. Whitley, James D. Nowlan and Timothy S. Bramlet; and

WHEREAS, many homeowners, businesses, financial institutions, schools, government officials and the media rely on the Federation for accurate information and an unbiased appraisal of state and local fiscal issues; THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 16, 2001, as TAXPAYERS' FEDERATION OF ILLINOIS DAY in Illinois.

Issued by the Governor March 6, 2001.

Filed by the Secretary of State March 8, 2001.

2001-130

AMERICAN EX-POW RECOGNITION DAY

WHEREAS, many loyal and brave Americans who served in the wars of this nation were captured by the enemy or listed as missing in action; and

WHEREAS, American Prisoners of War have often suffered unconscionable treatment despite international codes on the subject and many have died as a result of cruel and inhumane acts by the enemy captors; and

WHEREAS, it is fitting that we recognize the sacrifices of American Prisoners of War and those missing in action; and

WHEREAS, the Illinois Department of Veterans' Affairs will host an EX-POW Recognition Day ceremony on April 9, 2001, at the Governors Executive Mansion in Springfield to honor our American Soldiers;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 9, 2001, as AMERICAN EX-POW RECOGNITION DAY in Illinois.

Issued by the Governor March 7, 2001.

Filed by the Secretary of State March 8, 2001.

2001-131

CANCER AWARENESS DAY

WHEREAS, the State of Illinois is committed to raising awareness and financial support for cancer research and treatment; and

WHEREAS, the Walter Payton Cancer Fund is a non-profit Cancer Treatment Research Foundation that provides cancer patients and their families healing and hope by sponsoring innovative and promising clinical research on

science-based treatment options; and

WHEREAS, the Alvin James Group is coordinating a private concert featuring Patti LaBelle and Jeffrey Osborne as a fundraiser for the Walter Payton Cancer Fund; and

WHEREAS, the benefit concert will be held at The Park West in Chicago on April 21, 2001; and

WHEREAS, this special occasion is a wonderful time to reflect upon Walter's life of outstanding contributions to the people of Illinois and the world over through his many accomplishments as a crusader for life and team sports;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 21, 2001, as CANCER AWARENESS DAY in Illinois.

Issued by the Governor March 7, 2001.

Filed by the Secretary of State March 8, 2001.

2001-132

CANCER AWARENESS WEEK FOR AFRICAN AMERICANS

WHEREAS, the State of Illinois is committed to raising awareness and financial support for cancer research and treatment; and

WHEREAS, more than 800,000 Americans will be diagnosed with cancer this year; and

WHEREAS, cancer strikes people of all ages and ethnic backgrounds, and a great need exists to advance research and treatment among African Americans and other minorities; and

WHEREAS, the Walter Payton Cancer Fund was established by the late, great football star's family as part of the non-profit Cancer Treatment Research Foundation in order to support and encourage cancer research and creative treatment options; and

WHEREAS, research and treatment can dramatically improve the quality of life for those with cancer; and

WHEREAS, due to new research and new treatments, five-year survival rates for prostate cancer, breast cancer and melanoma average higher than 80 percent for all patients; and

WHEREAS, research and new treatments are needed to improve five-year survival rates for leukemia, lung cancer, non-Hodgkin's lymphoma, ovarian, and pancreatic cancer; and

WHEREAS, the Cancer Treatment Research Foundation helps provide cancer patients and their families with dignified treatment and a hope for a cure; and

WHEREAS, support for the Walter Payton Cancer Fund, especially from the people of Chicago and Illinois, will strengthen the fight against cancer;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 22-28, 2001, as CANCER AWARENESS WEEK FOR AFRICAN AMERICANS in Illinois.

Issued by the Governor March 7, 2001.

Filed by the Secretary of State March 8, 2001.

2001-133

ELSIE GREEN DAY

WHEREAS, Elsie Green has been a member of Park Manor Christian Church since 1958; and

WHEREAS, she has served the church in numerous capacities including Elder, Cabinet Chair, Christian Education Chair, Cub Scout Leader, President of the

Messengers Club, Chairperson of the Personnel Committee, and many other congregational and regional auxiliaries; and

WHEREAS, Elsie has been very active in her community, participating in countless political campaigns, from her years as a Republican precinct captain to her proud participation in such Democratic campaigns as those of the late Mayor Harold Washington; and

WHEREAS, Elsie served as president of the PTA at Forestville Elementary School in the early 50's and later in the same capacity at Park Manor Elementary School; and

WHEREAS, she was a teacher in the Weekday Religious Education program, which was co-sponsored by the Chicago Board of Education and local houses of worship; and

WHEREAS, Elsie worked in a variety of positions through the years, and some of her employers include Crawford Insurance Agency, R.R. Donnelly, Encyclopedia Britannica, and the University of Illinois Medical Center, from which she retired in 1973; and

WHEREAS, Elsie is the widow of the late Mr. Willie A. Green Sr., the mother of William A. Green Jr. (Majorie), the late Charles C. Green, the Rev. Dr. Irvin W. Green (Betty), and the late Attorney Pamela A. Green, and the grandmother of Stephanie, Danielle, Jason, and great-grandson Javani; and

WHEREAS, in March, Mrs. Green will relocate to Lexington, Kentucky, having resided in Chicago for more than 55 years; and

WHEREAS, Park Manor Christian Church will honor Elsie on March 18, 2001, for her outstanding contributions to the church and the community;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 18, 2001, as ELSIE GREEN DAY in Illinois.

Issued by the Governor March 7, 2001.

Filed by the Secretary of State March 8, 2001.

2001-134

GREAT AMERICAN MEATOUT DAY

WHEREAS, a wholesome plant-based diet of whole grains, vegetables, and fresh fruits reduces the risk of heart disease, stroke, cancer, diabetes, and other chronic and infectious diseases that cripple and kill nearly 1.5 million Americans annually; and

WHEREAS, such a diet helps preserve topsoil, water, energy, and other food production resources that are essential to human survival; and

WHEREAS, such a diet helps preserve our forests, grasslands, and other wildlife habitats and reduces pollution of our waterways by soil particles, debris, manure, and pesticides; and

WHEREAS, such a diet helps prevent the suffering and death of over nine billion sentient animals each year in the US; and

WHEREAS, for the past 14 years, many dedicated Great American Meatout volunteers have encouraged neighbors to explore such a diet;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 20, 2001, as GREAT AMERICAN MEATOUT DAY in Illinois.

Issued by the Governor March 7, 2001.

Filed by the Secretary of State March 8, 2001.

2001-135

MARCH OF DIMES WALK/AMERICA DAYS

Issued by the Governor March 7, 2001.
Filed by the Secretary of State March 8, 2001.

2001-137
PROUD LADY DAYS

WHEREAS, the American Health and Beauty Aids Institute (AHBAI) is a Chicago-based national trade association representing the leading African-American owned manufacturers of ethnic health and beauty aid products; and

WHEREAS, AHBAI was formed in 1981 and is celebrating its 20th Anniversary in 2001; and

WHEREAS, a symbol of strength and unity in the African-American community, AHBAI supplies high quality products produced by these manufacturers; and

WHEREAS, AHBAI will sponsor its 12th Annual Proud Lady Beauty Show, the largest ethnic show in the Midwest, in Chicago from March 31 - April 2, 2001;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 31-April 2, 2001, as PROUD LADY DAYS in Illinois.

Issued by the Governor March 7, 2001.
Filed by the Secretary of State March 8, 2001.

2001-122 (REVISED)
CARL N. DOERR WEEK

WHEREAS, Carl N. Doerr became the Village of Lisle's first Village Manager on October 8, 1973; and

WHEREAS, Doerr is the longest-tenured Village Manager in DuPage County; and

WHEREAS, prior to his tenure as Village Manager, Doerr served as a Trustee of the Village of Lisle from 1967 until 1973; and

WHEREAS, during his exemplary career of service, the population of the Village of Lisle grew from approximately 8,428 in 1974 to more than 20,000 today; and

WHEREAS, the Village staff grew from 15 employees to 110, and his vision and wisdom successfully helped steer the village during the mid-80s "construction boom" along the East/West Corporate Corridor and the many residential areas of the Village; and

WHEREAS, under Doerr's leadership and guidance, the diverse and well-planned development of the Village now includes industrial parks and a commercial research corridor, a wide range of residential properties and a water system transitioned into Lake Michigan water; and

WHEREAS, one of Doerr's key responsibilities has been that of Village Municipal Budget Officer, and he has achieved a noteworthy record of financial security and virtually debt-free stability; and

WHEREAS, Doerr's patriotic embrace of the values of responsibility, leadership, trust and honor exemplified in his great sense of pride, his strong work ethic, and his dedication to serving the community; and

WHEREAS, Doerr, a lifelong resident of Lisle and pillar of local government for more than three decades, will now embark on a well-earned retirement from his post of Village Manager; and

WHEREAS, his lifetime of achievement serves as an inspiration to all Illinois citizens;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

WHEREAS, everyday an average of 411 American babies are born with a birth defect, and 19 babies die as a result of their birth defect; and

WHEREAS, the March of Dimes is a voluntary health organization working to assure healthy lives for America's babies; and

WHEREAS, for more than 60 years, the March of Dimes has been safeguarding America's infant health; and

WHEREAS, the March of Dimes has been a pioneer in preventing birth defects, the nation's number one child health problem, through programs of research, community services, education, and advocacy; and

WHEREAS, WalkAmerica was initiated in 1970 to raise funds that support critical March of Dimes programs; and

WHEREAS, WalkAmerica has been successful for 30 years, providing more than \$1 billion for the March of Dimes mission to improve the health of babies by preventing birth defects and infant mortality; and

WHEREAS, the nation's hope for assuring future generations a healthy start in life depends upon the efforts and commitment of all Americans in events like WalkAmerica;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 28-29, 2001, as MARCH OF DIMES WALKAMERICA DAYS in Illinois.

Issued by the Governor March 7, 2001.
Filed by the Secretary of State March 8, 2001.

2001-136
MINORITY HEALTH MONTH

WHEREAS, minority populations in Illinois have higher incidence rates of many diseases, including cancer, heart disease, unintentional injury, diabetes and HIV/AIDS than the majority population; and

WHEREAS, minority populations are more likely to die from these diseases than non-minority populations; and

WHEREAS, the Minority Health Partnership in Chicago and the Minority Health Coalition in Springfield are made up of representatives of hospitals, community-based organizations, neighborhood centers, the business community, and public health departments dedicated to organizing and implementing health promotion programs for minority populations; and

WHEREAS, the partnership and coalition have adopted as their mission providing pertinent information and assistance on a wide range of health-related issues to minority individuals, families and communities throughout Illinois; and

WHEREAS, both organizations have undertaken this mission in order to support the large communal effort toward eliminating disparities in health outcomes between minority populations and the overall population; and

WHEREAS, the partnership and coalition have expanded their scope beyond Chicago and Springfield to include a year-round calendar of activities that incorporate effective health education and promotion strategies to help prevent disease and to counteract premature mortality; and

WHEREAS, both organizations have adopted April as Minority Health Month, during which attention is focused on community awareness and knowledge of health lifestyles, and all communities are encouraged to promote consistent physical activity, proper nutrition and regular medical visits;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2001 as MINORITY HEALTH MONTH in Illinois.

March 19-23, 2001, as CARL N. DOERR WEEK in Illinois.

Issued by the Governor March 5, 2001.

Filed by the Secretary of State March 8, 2001.